

## DIVISION OF ST. CROIX

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) CASE NO. 1:21-CV-00312

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THE ORAL DEPOSITION OF **TIM KOLOGINCZAK**, called

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33   Adrian Melendez, Jr.  
34   Andrew Canning

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P-R-O-C-E-E-D-I-N-G-S

(TIM KOLOGINCZAK,

having been called as a witness, was duly sworn by the  
Notary Public, was examined and testified as follows:)

## DIRECT EXAMINATION

BY MS. ROHN:

Q. Good morning. My name is Lee Rohn, and I  
represent Petro.

Could you state and spell your name for the record,  
please?

A. Yes. My name is Tim Kologinczak, T-i-m  
K-o-l-o-g-i-n-c as in cat, z as in zebra, a-k.

Q. Mr. Kologinczak, do you mind if I call you  
Mr. K.?

A. That is perfectly fine. No worries.

Q. Can you tell me where you are presently?

A. I'm in my counsel's office.

Q. Where is that?

A. It's downtown Houston.

Q. It's what?

A. Downtown Houston.

Q. Do you have any documents in front of you?

A. No. I have some exhibits that are digital.

6

1 That's it.

2 Q. And have you done anything to prepare to be  
3 deposed?

4 A. I just spoke with my counsel.

5 Q. And when did you speak with your counsel?

6 A. The last two weeks.

7 Q. How many times?

8 A. Three times.

9 Q. And for what period of time?

10 A. Four hours for two of them, and then probably  
11 about seven hours for one of 'em.

12 Q. In preparing for your deposition, have you spoken  
13 to anyone else besides counsel?

14 A. No.

15 Q. Have you been informed about any of the testimony  
16 of any of the witnesses that have been deposed?

17 A. No.

18 Q. And approximately how many documents did you look  
19 at?

20 A. Quite a few. I mean, it's hard to count exactly  
21 how many, but decent amount of 'em.

22 Q. Where were you born?

23 A. Houston, Texas.

24 Q. Have you ever been deposed before?

25 A. I have not.

7

1 Q. Well, I'm sure your counsel has done a great job  
2 of explaining what a deposition is, but I'm gonna give you  
3 kind of a shorthand.

A deposition is as if you were in court, under oath.  
Same penalties of perjury apply. The only difference is  
it's in a more informal setting. The court reporter, who  
is Yvonne Setorie, is going to be take down everything that  
everybody says, and it's typed up into a booklet. You will  
have an opportunity to review it and sign it or not to.

So my job is to ask questions of you that are clear  
and are understandable.

(Off the record due to disconnection.)

BY MS. ROHN:

Q. And your job is to give truthful answers. If I  
ask a question that is not clear, you have every right to  
ask me to clarify the question or to make it so that you  
understand. Otherwise, I'll assume that you understood the  
question when you were asked it.

From time to time, there'll be attorneys who may give  
objections. Those objections are actually for the record  
for the court at some time in the future to rule on. But  
unless you're instructed not to answer by your attorney,  
then you are required to answer the question.

This is not an endurance test; so if you need a break,  
just tell me, and we'll take a break.

8

1 And do you have any questions so far?

2 A. No, ma'am.

3 Q. So can you tell me your educational background  
4 after high school?

5 A. I'm -- I have a bachelor's in civil engineering.

6 Q. From where?

7 A. Texas Tech University.

8 Q. And when did you graduate?

9 A. 2012.

10 Q. And can you tell me a brief thumbnail of your  
11 employment since college?

12 A. Sure. My first employer was a engineering design  
13 firm, and I worked there for two years, and then --

14 Q. Does it have a name?

15 A. TKE Engineering & Design.

16 Q. Go ahead.

17 A. And then I was employed by Vitol Midstream in  
18 Midland, Texas.

19 Q. Vitol what?

20 A. Midstream.

21 Q. Midstream?

22 A. Yes.

23 Q. And where? I'm sorry.

24 A. In Midland, Texas.

25 Q. And how long did you work for Engineering -- TKE?

9

1 A. Two years.  
 2 Q. And what was your position with TKE?  
 3 A. I was a project engineer.  
 4 Q. And why did you leave TKE?  
 5 A. New opportunities.  
 6 Q. And what were those new opportunities?  
 7 A. Growth and experience.  
 8 Q. And who gave you growth and experience?  
 9 A. Vitol Midstream.  
 10 Q. And what did you do for Vitol Midstream?  
 11 A. I was their field engineer and project manager.  
 12 Q. And what types of projects did you work on?  
 13 A. We did a lot of construction projects for truck  
 14 racks and terminals and injection stations.  
 15 Q. What kind of terminals?  
 16 A. Storage terminals.  
 17 Q. Who did you report to?  
 18 A. Brian Jones.  
 19 Q. What was his title?  
 20 A. He was the operations manager.  
 21 Q. How long did you stay with Vitol Midstream?  
 22 A. About two years.  
 23 Q. Did you have the same position the entire two  
 24 years?  
 25 A. Yes.

11

1 Q. Do you currently have that same position?  
 2 A. No. I recently took a new position at another  
 3 company.  
 4 Q. When did you leave Vitol Inc.?  
 5 A. Mid-May.  
 6 Q. Why did you leave Vitol Inc.?  
 7 A. Growth and opportunities.  
 8 Q. Where did you go?  
 9 A. Atlas Oil.  
 10 Q. And what do you do at Atlas Oil?  
 11 A. Scheduling. Basically the same thing I did at  
 12 Vitol.  
 13 Q. When you were at -- first as a physical operator  
 14 at Vitol Inc., who did you report to?  
 15 A. Sebastian Moretti.  
 16 Q. Did there ever come a time that you stopped  
 17 reporting to Sebastian Moretti?  
 18 A. No.  
 19 Q. And did anyone report to you?  
 20 A. No.  
 21 Q. As part of your job as a physical operator, did  
 22 you have any involvement with the propane terminals in the  
 23 U.S. Virgin Islands?  
 24 A. Yes.  
 25 Q. What was that involvement?

10

1 Q. And then where did you go?  
 2 A. Vitol Inc. in Houston.  
 3 Q. And why did you go from Midstream to Inc.?  
 4 A. They sold the asset to Energy Transfer.  
 5 Q. So was this a transfer?  
 6 A. Somewhat, yes.  
 7 Q. Well, did you have to apply for the employment at  
 8 Vitol Inc.?  
 9 A. I had an interview. That was it.  
 10 Q. And what position did you start with at  
 11 Vitol Inc.?  
 12 A. Physical operator.  
 13 Q. What? I'm sorry. Say that again.  
 14 A. Physical operator.  
 15 Q. What does a physical operator do?  
 16 A. Operations and logistics.  
 17 Q. For what?  
 18 A. Moving commodities.  
 19 Q. And what commodities was it in your case?  
 20 A. Mostly refine products, such as gasoline, diesel,  
 21 and jet fuel.  
 22 Q. How long did you hold that position?  
 23 A. Seven years.  
 24 Q. From when to when, if you can tell me?  
 25 A. From 2000 and -- 2016 to 2023.

12

1 A. Overseeing the physical operations at the  
 2 terminal and some project involvement, oversight for that.  
 3 Q. Had you ever done similar work to that before?  
 4 A. I'd done some of that in Midland, yes, as project  
 5 management.  
 6 Q. I'm sorry. You'd done some of that where?  
 7 A. In Midland. When I was in Midland.  
 8 Q. When did you begin having an involvement with the  
 9 propane terminals in the Virgin Islands?  
 10 A. It's probably within the first couple months that  
 11 I came to Vitol in Houston.  
 12 Q. So sometime in 2016?  
 13 A. Yes, ma'am.  
 14 Q. And what particularly did you start on doing?  
 15 A. Mostly just going to the -- the plants and, you  
 16 know, getting an idea of what's all going on. They'd just  
 17 finished building and commissioning the facility; so I just  
 18 kinda of, you know, got familiar with what was going on,  
 19 the personnel a little bit, and, you know, just kind of  
 20 providing some oversight on -- on what was going in the --  
 21 in the Virgin Islands.  
 22 Q. And besides Mr. Moretti, did you work with anyone  
 23 else as far as the terminals in the Virgin Islands were  
 24 concerned?  
 25 A. By working with, what do you mean by that?

13

1 Q. Anybody else in Vitol Inc. that you worked with?

2 A. Charlotte Horowitz.

3 Q. Was that -- did that start in 2016, or was it at  
4 a later date?

5 A. Yes.

6 Q. That was an imperfect question.  
7 Did that start in 2016?

8 A. Yes.

9 Q. Okay. And was there a division of job duties  
10 between yourself and Ms. Horowitz?

11 A. Yes.

12 Q. And what was the division?

13 A. She handled the resupply of the propane  
14 facilities, and I just -- I mostly focused on operations.

15 Q. During the time that you worked at Vitol Inc.,  
16 did that division of responsibility change any between you  
17 and Charlotte Horowitz?

18 A. No, not really.

19 Q. In connection with your work at the propane  
20 terminals in the Virgin Islands, did you become familiar  
21 with a company called Petro?

22 A. Yes.

23 Q. And how did you become familiar with Petro?

24 A. Petro Industrial had done a lot of the work in  
25 the facilities, a lot of the maintenance and some of the --

14

1 the projects.

2 Q. And what was your involvement with Petro as far  
3 as the work they were doing?

4 A. I had a lot of oversight with the facilities and  
5 some of the projects; so we had in passing, we talked and  
6 met each other and occasionally discussed some of the  
7 projects that were going on.

8 Q. When you say "we," who were you talking to at  
9 Petro?

10 A. Adrian and Chad.

11 Q. And at any time prior to 2021, did you have any  
12 dissatisfaction with the work that they were doing?

13 A. Not that I recall, no.

14 Q. And prior to 2021, how would you categorize the  
15 quality of their work?

16 A. It was good.

17 Q. In connection with your working -- well, let me  
18 ask this way: Have you ever had any interaction with  
19 Andrew Canning?

20 A. Yes.

21 Q. And when did you first begin having any  
22 involvement with Andrew Canning?

23 A. Probably would have been when I started getting  
24 involved with the facilities in 2016.

25 Q. So you had not had any interaction with him prior

15

1 to that?

2 A. No, ma'am.

3 Q. And who did you understand Andrew Canning was?

4 A. He was a contractor that provided a lot of  
5 technical expertise.

6 Q. Who did you understand Mr. Canning worked for?

7 A. IPOS and OPTIS.

8 Q. Prior to 2021 did you ever have any conversations  
9 with Mr. Canning about Petro?

10 A. Not really, just project-related updates.

11 Q. Did he ever, to your recollection, have any  
12 criticism of Petro that he made to you?

13 A. No.

14 Q. Did you ever observe the relationship between  
15 Mr. Canning and the employees of Petro?

16 A. No.

17 Q. You never saw him interacting with the employees  
18 of Petro?

19 A. Not really, no, not in person or -- I mean, maybe  
20 on a phone call, but no.

21 Q. So how often starting in 2016 would you actually  
22 physically be at the terminal -- terminals?

23 A. Before COVID it was maybe once a quarter, and  
24 then when COVID happened, I -- I hadn't returned.

25 Q. So is it your testimony that post-COVID you never

16

1 were at the terminal facilities in the Virgin Islands?

2 A. That I recall, yes.

3 Q. And what was the purpose of your -- pre-COVID --  
4 it's interesting how we mark our lives by that now, right.  
5 Pre-COVID, what would you do once a quarter when you went  
6 to the facilities?

7 A. I visit the facilities just to check on the  
8 maintenance and the upkeep, interact with some of the  
9 personnel at IPOS, and oversee -- just check on the  
10 projects if there were anything that was going on.

11 Q. Generally how long would you stay?

12 A. Maybe three days. One per island.

13 Q. Would you write any reports as to your  
14 observations during those quarters?

15 A. Not really. Maybe a couple phone calls.

16 Q. And who would you make those phone calls to?

17 A. I talk to Sebastian or Eduardo.

18 Q. Is that Eduardo Garcia?

19 A. Yes, ma'am.

20 Q. And what types of things would you talk to them  
21 about?

22 A. Just general maintenance updates, how things are  
23 going.

24 Q. Would you as a result of those visits make any  
25 memos or e-mails to IPOS as to your observations?

17

1 A. No.

2 Q. And same question as to Sebastian Moretti or  
3 Eduardo Garcia, would you send e-mails or anything as to  
4 your observations?

5 A. Not that I recall.

6 Q. Generally, pre-COVID, what were your observations  
7 when you would go once a quarter?

8 A. Just checking on any of the -- any of the  
9 projects and the maintenance. There were some, you know,  
10 work that was done to -- to, uh, clean up some of the  
11 corrosion, piping issues they were having. And  
12 occasionally, we also had a truck rack that was built that  
13 I would go look at as well.

14 Q. I'm sorry. Something about a track rack?

15 A. Yes, a truck rack.

16 Q. That was being building?

17 A. Yes, ma'am.

18 Q. Is that correct?

19 A. Yes, ma'am.

20 Q. So, generally speaking, when you would make --  
21 when you would go to observe the plants, what was your  
22 observation? Did you think it was in good condition? it  
23 needed work? it was in poor condition? What was the nature  
24 -- the general nature of your observations when you would  
25 visit?

19

1 Virgin Islands.

2 Q. Did you say office manager?

3 A. Ops, operations manager.

4 Q. Ah, okay.

5 And do you recall approximately when that was?

6 A. 2018 maybe, '17.

7 Q. And who was the operations manager prior to that?

8 A. Merlin Figueira.

9 Q. And what occurred that Merlin Figueira stopped  
10 being the ops manager and David Smith became the ops  
11 manager?

12 A. I don't know.

13 Q. You don't know?

14 A. No.

15 Q. Do you know where Merlin Figueira went when  
16 David Smith became the ops manager?

17 A. I don't.

18 Q. And at some point are you aware that David Smith  
19 went to VTTI?

20 A. Yes.

21 MS. FRANCIS: Objection.

22 BY MS. ROHN:

23 Q. And how -- how did you become aware?

24 That was one of those objections I told you about.

25 A. He was the --- he was moved to the operations

18

1 A. Just some things that needed to be tidied up and  
2 cleaned up. Just general observation.

3 Q. And is it correct that Mr. Sebastian Moretti also  
4 worked for Vitol Inc.?

5 A. Yes, ma'am.

6 Q. And the same for Eduardo Garcia, he also worked  
7 for Vitol Inc.?

8 A. Yes.

9 Q. During your tenure overseeing the propane  
10 terminals in the Virgin Islands, did you ever have any  
11 interaction with VTTI?

12 A. I -- I don't know if that would be the entity. I  
13 -- I dealt mostly with IPOS.

14 Q. Well, in -- did you know David Smith?

15 A. Yes.

16 Q. And when you -- when did you --

17 MS. ROHN: Hold on a second. I'm gonna try to  
18 get rid of this.

19 I'm going to ignore it. That's what I'll do.

20 I'll just ignore it.

21 BY MS. ROHN:

22 Q. When you -- now I lost my train of thought.

23 When did you begin having any interactions with  
24 David Smith?

25 A. When he became the ops manager in the

20

1 manager for Seaport Canaveral facility that I also did  
2 operations at.

3 Q. What was your understanding between the  
4 relationship between VTTI and IPOS?

5 A. I don't know.

6 Q. Well, do you know how he would have been able to  
7 be transferred from IPOS to VTTI?

8 A. I don't.

9 MS. FRANCIS: Objection. Misstates the  
10 record. Foundation.

11 BY MS. ROHN:

12 Q. When David Smith left, who became the ops manager  
13 at IPOS?

14 A. Terry.

15 Q. Sorry? Can I have a --

16 A. Terry. I don't know -- it starts with a K. Or  
17 Terence.

18 Q. Now, during the time prior to 2021, were you  
19 aware of any complaints against Mr. Canning?

20 A. No.

21 Q. During -- before 2021 did you have any  
22 conversations with Mr. Melendez or Mr. Persuad about  
23 Mr. Canning?

24 A. No.

25 Q. Prior to 2021 did you hear any complaints about

21

1 Mr. Canning from anyone?

2 A. No.

3 Q. From your observation of working with

4 Mr. Canning, how would you describe his ability to do work?

5 A. He's good at his job.

6 Q. And why do you say he's good at his job?

7 A. He's very technical. He understands the

8 facilities and the engineering behind a lot of it.

9 Q. Didn't Mr. Canning have to leave the

10 Virgin Islands periodically because of his immigration  
11 status?

12 A. Yes.

13 Q. And other than having to leave the Virgin Islands

14 for periods of time, were there any other limitations to

15 the work Mr. Canning could do as a result of his

16 immigration status?

17 A. Not that I know of.

18 Q. Were there certain types of sign-off on jobs that  
19 he was unable to sign off for?

20 A. I don't know.

21 Q. Do you know whether or not Mr. Canning ever  
22 became certified or licensed in the United States as a --  
23 oh, I didn't write down what his job title was. As a --  
24 like a licensed engineer?

25 A. Not that I know of.

22

1 Q. Well, was there -- was there not jobs that had to  
2 be signed off on by licensed engineers in the projects that  
3 were done at the propane terminals in the Virgin Islands?

4 A. Not that I recall. Maybe the engineers that  
5 designed the facility.

6 Q. Give me one minute.

7 (Off the record.)

8 MS. ROHN: I have a new judge in the

9 Superior Court on a FED that was filed that we -- to  
10 -- that we got notice of two days ago, which we asked  
11 for a continuance because we're in a deposition, who  
12 has denied the continuance and requires me to be in  
13 person at 11 o'clock at the Superior Court.

14 So I will have to break this deposition, go to  
15 Superior Court for some period of time and return. So  
16 it's totally without my control. Sorry about that,  
17 guys.

18 MR. KELSO: We can talk about it on the break.

19 MS. ROHN: Huh?

20 MR. KELSO: We can talk about it on the next  
21 break if we need to.

22 MS. ROHN: Okay.

23 BY MS. ROHN:

24 Q. Prior to 2021 what cert -- what documents did  
25 Petro have to provide to Vitol or to IPOS and/or Vitol Inc.

23

1 as to its weldings, its weldings on jobs?

2 A. Depending on the project, it would have been  
3 welding certifications for the job data books.

4 Q. The what?

5 A. Job data books.

6 Q. Okay. So, sir, when is the first time you recall  
7 seeing welding certificates for Petro welders?

8 A. I -- I don't think I ever saw them.

9 Q. Then how do you know they gave them?

10 A. It was IPOS and Andrew's responsibility to gather  
11 those.

12 Q. But my question is: Do you know whether or not  
13 they ever did?

14 A. I do not. Well, they -- they haven't provided  
15 them from what I understand. But I have not seen them, no.

16 Q. I'm sorry. Could you say that again?

17 A. I have not seen any of the welding  
18 certifications, but I do not know if they provided them.

19 Q. Okay. It got a little garbled in there. Did you  
20 say, I do not know if they provided them?

21 A. I -- I do not know if they have physically  
22 provided them. From what I have been told, they have not.  
23 I've never seen them.

24 Q. Okay. And prior to 2021 have you --- did you  
25 ever see any Petro job data books?

24

1 A. Not completed ones.

2 Q. And prior to 2021, as you're overseeing these  
3 projects, did you ever require or request that you be given  
4 job data books?

5 A. Yes.

6 Q. And when is the first time that you made that  
7 request?

8 A. I don't recall exactly.

9 Q. How do you know you made that request if you  
10 don't recall when?

11 A. I don't know the specific date, but I know that  
12 we -- we requested them for specific projects.

13 Q. What is the first project you requested them for?

14 A. The truck rack.

15 Q. And what precisely did you request?

16 A. It's -- I don't know exactly what all is in it,  
17 but there's a generic known list of requirements needed for  
18 every project.

19 Q. Well, the truck rack, was that in 2019?

20 A. That sounds right. I don't know exactly, though.

21 Q. And in what way did you request a job data book  
22 on the truck rack?

23 A. It would have been through a scope of work and  
24 through any kind of discussions. I know we had several.

25 Q. And who did you have those discussions with?

25

1 A. It would have probably been Adrian.  
2 Q. And is it your testimony that you received the  
3 job data books for the truck rack?  
4 A. No.  
5 Q. So did you receive any portion of the truck -- of  
6 the job data books?  
7 A. Not that I recall.  
8 Q. And what do you contend was your conversations  
9 with Adrian about the job data books?  
10 A. That we needed them to close out the projects so  
11 that we could commission the --  
12 (Interruption by the court reporter.)  
13 A. -- the asset.  
14 BY MS. ROHN:  
15 Q. All right. So when you didn't get the job data  
16 books, what did you do?  
17 A. We requested the missing information to be  
18 provided.  
19 Q. So you got some information, would that be  
20 correct, if you're only asking for missing information?  
21 A. I don't know exactly. I know I've seen some of  
22 the documentation but not everything.  
23 Q. Was the truck rack commissioned?  
24 A. No.  
25 Q. Never been commissioned?

27

1 couple of consultants brought in to specify what would need  
2 to be provided or done to make that safer; but it's not in  
3 the wrong place.  
4 Q. And who was in charge of making sure the truck  
5 rack was -- was constructed in a safe manner?  
6 A. It would have been IPOS.  
7 Q. And would Mr. Canning have had a responsibility  
8 for that as well?  
9 A. I don't know. He provided technical oversight.  
10 Q. Do you know what those safety issues are?  
11 A. The proximity of the truck rack and the control  
12 room was a concern due to if there were any leaks or  
13 explosion, you know, there -- there could be some safety  
14 concerns.  
15 Q. Other than the truck rack, do you have any  
16 specific recollection of asking for job data books on any  
17 other project that Petro did?  
18 A. Yes.  
19 Q. What other project?  
20 A. There was a vent line project.  
21 Q. Is that the 3-inch vent line project?  
22 A. Yes.  
23 Q. I'm sorry. I didn't hear your answer.  
24 A. Yes.  
25 Q. Other than the truck rack and the -- the 3 vent

26

1 A. No, ma'am.  
2 Q. Somebody using it?  
3 A. No.  
4 Q. Nobody is using the truck rack? Oh, that's right  
5 there's some -- there's some materials that are missing to  
6 complete that project; is that correct?  
7 A. We've just put everything on hold for now.  
8 Q. And why did you put everything on hold?  
9 A. The big piece was the job data books being  
10 missing, and you need that to put something into service.  
11 Q. So in what way did you request of Petro these  
12 missing pieces of the job data book?  
13 A. It would have been communicated with them.  
14 Q. In what way?  
15 A. Conversations and potentially e-mails.  
16 Q. Have you seen e-mails in that regard?  
17 A. Not that I recall.  
18 Q. Well, isn't one of the reasons that the truck  
19 rack is on hold is because there are -- there were still  
20 materials that are missing to complete that job?  
21 A. Not that I recall.  
22 Q. Isn't one of the reasons that the truck rack  
23 hasn't been commissioned because it's been -- was put in  
24 the wrong place, and the fumes go into the control room?  
25 A. There were safety concerns, and there were a

28

1 line project, did you ask for job data books on any other  
2 jobs Petro did?  
3 A. Not that I recall.  
4 Q. And the guidelines for how these job data books  
5 are to be provided, does that -- the procedures for those,  
6 is that -- are those VTTI's procedures?  
7 A. They're standard procedures for most facilities.  
8 I would presume that IPOS has the same standard.  
9 Q. Have you ever seen an IPOS standard on that  
10 regard?  
11 A. No.  
12 Q. In fact, do you know -- do you know whether or  
13 not IPOS used the VTTI standard?  
14 A. I don't know.  
15 Q. The other work that was done by Petro where you  
16 didn't request job data books, were they commissioned?  
17 A. Most of those projects were maintenance projects.  
18 Q. Wasn't there a 1-inch vent line project?  
19 A. Yes.  
20 Q. That's not a maintenance project, is it?  
21 A. It was. I believe the purpose of it was to  
22 remove corrosion, pipe corrosion, and replace it with  
23 better quality material; so I would consider that  
24 maintenance.  
25 Q. You asked for a job data book on that?

29

1 A. I don't remember.

2 Q. You have any recollection of asking for a job  
3 data book on that?

4 A. I don't.

5 Q. Were you aware of a reverse loading project in  
6 St. Thomas?

7 A. Yes.

8 Q. Did you ask for a job data book on that project?

9 A. I don't remember.

10 Q. Do you have any present recollection of  
11 requesting for a job data book for that project?

12 A. Not that I recall. I don't know.

13 Q. When is the first time you can recall requesting  
14 welding certificates for the Petro welders?

15 A. I don't know exactly.

16 Q. What project?

17 A. Again, I don't know.

18 Q. Well, did you have a procedure where every  
19 project you asked for welding certificates?

20 A. I never always specifically did, but it would  
21 have been IPOS' responsibility to get that documentation.

22 Q. I'm sorry. I didn't hear the first part of your  
23 answer.

24 A. I don't know if I would have specifically asked  
25 for all of them for all their projects, but IPOS would

30

1 have.

2 Q. Well, if IPOS got them, why wouldn't they be  
3 given to you?

4 A. I don't know.

5 Q. Wouldn't the procedure be that if IPOS got them,  
6 then they would be given to you as part of the project?

7 A. No, they're the -- they were the operator of the  
8 facility, and that documentation stays with them. It's  
9 their responsibility.

10 Q. Well, when did you begin asking for welding  
11 certificates?

12 A. Again, I don't recall exactly.

13 Q. Well, did you ask for welding certificates on the  
14 No. 3 vent line?

15 A. Yes.

16 Q. Do you recall ever asking for welding  
17 certificates prior to that?

18 A. I'm -- I don't recall exactly. Maybe. Maybe on  
19 the truck rack. Me specifically, I don't know.

20 Q. What caused you to ask for the welding  
21 certificate on the No. 3 vent line?

22 A. It was WAPA's requirement.

23 Q. And what document did you find that it was WAPA's  
24 requirement?

25 A. I don't remember specifically. There was

31

1 communication with them, and they requested it.

2 Q. There was communication with whom?

3 A. WAPA.

4 Q. You had that communication with WAPA?

5 A. Yes.

6 Q. All right. Who at WAPA did you have that  
7 communication with?

8 A. I don't remember.

9 Q. Was it by e-mail? in person?

10 A. Again, I don't remember. It may have been  
11 through a call we had some kickoff discussions, and it  
12 might have been brought up there.

13 Q. Well, who were you dealing with on the No. 3 vent  
14 line at WAPA?

15 A. I don't remember his name. There were several  
16 people on the call.

17 Q. Well, in fact, isn't it true in January you asked  
18 for the welding certificates for the Petro welders, and in  
19 February you were given those welding certificates?

20 A. I don't recall.

21 Q. Do you recall getting welding certificates from  
22 Petro after you asked for them on the No. 3 vent line?

23 A. No, I don't recall.

24 Q. Do you recall asking for welding certificates of  
25 the welders on the No. 3 vent line more than one time?

32

1 A. Again, I don't recall.

2 Q. Was the No. 3 vent line commissioned?

3 A. Yes.

4 Q. And was it commissioned without a data book, job  
5 data book?

6 A. Completed data book, yes.

7 Q. And was IPOS paid for that work?

8 A. I'm sorry. IPOS or --

9 Q. Yes. Yeah, IPOS. What was your answer?

10 A. IPOS gets paid on a monthly basis due -- due to  
11 our contract. They don't get paid by a project basis.

12 Q. Has WAPA, to your knowledge, ever complained  
13 about the No. 3 vent line?

14 A. Just some -- some of the labels and some other  
15 small bits and pieces that I don't remember, but I think it  
16 was just mostly the labels, I think, was the issue.

17 Q. That was they were the wrong color. And is it  
18 not correct that Petro corrected those labels at its own  
19 expense?

20 A. I don't know. I never seen them. So I believe  
21 they were corrected, but I'm not sure.

22 Q. Other than that small problem, has WAPA ever, to  
23 your knowledge, requested any changes to the No. 3 vent  
24 line?

25 MR. KELSO: Objection. Form.

33

1 BY MS. ROHN:  
 2 Q. You may answer.  
 3 A. Not that I recall.  
 4 Q. Have you ever had any discussions with  
 5 Mr. Canning about the certification of the Petro welders?  
 6 A. Can you repeat the question?  
 7 Q. Yes. Have you ever had any conversations with  
 8 Mr. Canning about the certification of Petro's welders?  
 9 A. Not that I recall.  
 10 Q. Have you ever had any e-mails or seen e-mails in  
 11 which Mr. Canning claims that the certifications have  
 12 anomalies?  
 13 A. I vaguely remember that, yes.  
 14 Q. And had you -- do you recall any actual  
 15 one-on-one conversations with Mr. Canning about those  
 16 anomalies?  
 17 A. No.  
 18 Q. Were you involved in any conversations regarding  
 19 terminating Petro's contract?  
 20 A. No.  
 21 Q. Did you ever involve in any e-mail chains  
 22 regarding canceling Petro's contract?  
 23 A. No.  
 24 Q. Were you ever involved in any conversations  
 25 either by e-mail, text, or in person about canceling IPOS'

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1 A. David Smith. Well, no, I don't even -- they're  
 2 not even VTTI employees, so no.  
 3 Q. So is it your testimony, sir, that with regards  
 4 to the Virgin Islands propane terminals, that you in  
 5 overseeing the work for those terminals never had any  
 6 interaction from anyone from VTTI?  
 7 A. It was all with IPOS.  
 8 Q. Why was Vitol Inc. overseeing the work done at  
 9 the Virgin Islands terminals?  
 10 A. We own the asset.  
 11 Q. So it's your testimony, sir, that Vitol Inc.  
 12 owned the propane terminals?  
 13 A. It's -- I think maybe it's VVIC. I don't know.  
 14 There is an entity that does own the facility, but it's our  
 15 responsibility to -- since it's our asset, to oversee it.  
 16 Q. And when you say "our asset," who is our?  
 17 A. VVIC or -- or Vitol. Vitol.  
 18 Q. Vital who?  
 19 A. Vitol Inc.  
 20 Q. The sale of this asset, is that Vitol Inc. that's  
 21 selling the asset?  
 22 A. I -- I don't know.  
 23 MS. ROHN: I'd like to take a short break now  
 24 see if I can't fix this 11 o'clock problem, because  
 25 I'm about to start some exhibits. Is this a good time

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1 contract?  
 2 A. No.  
 3 Q. Did you understand that IPOS was a subsidiary of  
 4 Vitol -- of a -- of Vitol company?  
 5 MR. KELSO: Objection. Form.  
 6 BY MS. ROHN:  
 7 Q. You may answer.  
 8 A. Can you repeat the question?  
 9 Q. Sure. Did you understand that IPOS was a  
 10 subsidiary of a Vitol company?  
 11 MR. KELSO: Objection. Form.  
 12 BY MS. ROHN:  
 13 A. No.  
 14 Q. Were you aware that IPOS was a subsidiary of  
 15 VTTI?  
 16 A. When you say "subsidiary," what do you mean  
 17 exactly?  
 18 Q. That VTTI was a parent.  
 19 A. No, I did not know that.  
 20 Q. What did you understand to be the relationship  
 21 between VTTI and IPOS?  
 22 A. I don't know. I don't know what their  
 23 relationship was.  
 24 Q. You ever do -- have any interactions with people  
 25 from VTTI?

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1 for everybody to take like 10 minutes?  
 2 MR. KELSO: That's fine. We do need to  
 3 complete this deposition today. But it's fine to take  
 4 a break.  
 5 MS. ROHN: Well, if it's beyond my control, it  
 6 is beyond my control.  
 7 MR. KELSO: Depo's got to be done today.  
 8 MS. ROHN: I'm sorry. I didn't understand  
 9 you.  
 10 MR. KELSO: The deposition needs to be done  
 11 today. The witness isn't available. We got other  
 12 depositions scheduled, so... Yeah, we can talk about  
 13 it, if we need to get there, but the deposition does  
 14 need to end today.  
 15 MS. ROHN: You can't make me do something  
 16 that's impossible, sir. So if you want me to take  
 17 this up with the court, I'll be glad to.  
 18 MR. KELSO: Let's try and get the deposition  
 19 done today.  
 20 MS. ROHN: Why would I do anything else but  
 21 that?  
 22 (Inaudible.)  
 23 MR. KELSO: Is that last comment on the  
 24 record, Yvonne?  
 25 COURT REPORTER: I'm sorry, I didn't hear it.

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1 MR. KELSO: Counsel for Petro commented  
2 "lovely human being" sarcastically. Let's make sure  
3 that's on the record.  
4 MS. ROHN: If the court reporter didn't hear  
5 it, it can't make sure it's on the record. And I was  
6 speaking to my client, and didn't realize that there  
7 was a mute -- that we weren't mute. And I think that  
8 you are being really hard to deal with when there's an  
9 emergency that I have no control over.  
10 MR. KELSO: Counsel, we'll do what we can.  
11 But the deposition needs to be completed today.  
12 MR. SIMPSON: I heard it as well.  
13 (A recess was taken at this time.)  
14 MS. ROHN: We will start with Exhibit No. 1.  
15 (E-mails Bates No. CANNING 1 were previously  
16 marked as Exhibit 1 for identification.)  
17 (Off the record.)  
18 MS. ROHN: Karima, could you scroll, please?  
19 So if you go back up to the top, Karima, please.  
20 BY MS. ROHN:  
21 Q. This appears to be an e-mail, December 10, 2019,  
22 from yourself to Andrew Canning in response to a e-mail  
23 from Andrew Canning and also copying Adrian Melendez,  
24 Chad Persuad, David Smith, Eduardo Garcia, and  
25 Andrew Canning, concerning the truck rack design

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1 MS. ROHN: And if you go to now Exhibit 2.  
2 (E-mails Bates No. CANNING 4 were previously  
3 marked as Exhibit 2 for identification.)  
4 BY MS. ROHN:  
5 Q. That is an e-mail the same day, later in the day  
6 from Andrew Canning to you, and then to David Smith,  
7 Chad Persuad, Adrian Melendez, again about the truck rack  
8 -- loading rack.  
9 And if you look at the last sentence on that e-mail,  
10 Mr. Canning says "I will talk with Chad to see his view on  
11 whether additional equipment may be required to undertake  
12 the tasks."  
13 Was it normal for Mr. Canning to be contacting Petro  
14 employees directly on projects as to adding equipment?  
15 A. Yes.  
16 MR. SIMPSON: Objection to form.  
17 BY MS. ROHN:  
18 Q. And why is that?  
19 A. He was overseeing the projects in the field.  
20 Q. And who was he doing that for?  
21 A. IPOS.  
22 Q. Did there come a time that Mr. Canning stopped  
23 working for IPOS and began working for Vitol Inc.?  
24 MR. KELSO: Object to form.  
25 BY MS. ROHN:

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1 inconsistencies.  
2 Would it be typical for you, sir, in -- as part of  
3 your -- Vitol Inc.'s oversight to communicate by e-mail  
4 directly with Adrian Melendez?  
5 MR. KELSO: Object to form.  
6 BY MS. ROHN:  
7 Q. You can answer.  
8 A. Occasionally.  
9 Q. And what would determine whether or not you would  
10 communicate with Petro directly?  
11 A. It just depends. Varies, depending on situation.  
12 Q. Depends like on what -- what situation compared  
13 to what situation?  
14 A. I mean, this case he's -- he's on the e-mail  
15 cc'd, but I don't recall of any instances where I  
16 consistently talked to Adrian directly via e-mail and only  
17 Adrian.  
18 Q. And does this refresh your recollection -- well,  
19 I didn't say only Adrian. I said that he would be included  
20 on an e-mail.  
21 A. Correct.  
22 Q. Does this refresh your recollection whether or  
23 not the truck rack design -- truck rack project was  
24 occurring in December of 2019?  
25 A. A bit, yes.

40

1 Q. You may answer.  
2 A. Not that I recall specifically. He was a  
3 contractor.  
4 Q. Well, I'm sorry. Did there come a time that  
5 OPTIS stopped contracting with IPOS and started contracting  
6 with Vitol?  
7 A. I don't recall specifically.  
8 Q. Do you recall generally?  
9 A. Yes.  
10 Q. And what generally do you recall?  
11 A. I know that OPTIS is who he -- he did his work  
12 through.  
13 Q. Well, and at some point he did his work through  
14 -- for IPOS; correct?  
15 A. Correct.  
16 Q. And then at some point did his contract with IPOS  
17 end, and he contracted with Vitol?  
18 A. Through OPTIS, I believe, he did.  
19 Q. And do you know why that change was made?  
20 A. No.  
21 Q. How did you learn that change was made?  
22 A. I'd seen some invoices from OPTIS.  
23 Q. And in what -- in what regard would you see those  
24 e-mails?  
25 A. Just approval -- approval e-mails for payment.

41

1 Q. Just what?

2 A. Approval e-mails.

3 Q. And what would you have to approve?

4 A. Just his work, time sheets.

5 Q. Were you ever aware of complaints that

6 Mr. Canning was making as to Petro's time sheets?

7 A. Vaguely.

8 Q. And what vaguely were you aware of?

9 A. I know there were some time sheets that he was

10 reviewing, and then maybe had some disputes with. But

11 mostly it was just us, you know, making sure that his

12 initials or approval was made on those time sheets.

13 Q. So walk me through the approval process for

14 Petro's -- Petro being paid.

15 A. Andrew would confirm that the work was being

16 done. So in some cases they would bill us for a specific

17 completion percentage and, you know, a part of that is the

18 time sheets for all the labor and the work and equipment.

19 So Andrew would go through and confirm and approve those

20 elements of the invoice.

21 Q. And then what would happen?

22 A. And if that was all approved and good, then we

23 would make payment.

24 Q. And where would the payment come from?

25 A. Vitol would pay that. Well, sorry, IPOS paid

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1 Q. And so, sir, in those cases, why were you

2 approving them directly for Vitol to pay?

3 A. I wasn't. It relied on oversight from IPOS and

4 Andrew to confirm that the work was done, and that

5 everything had been signed off.

6 Q. I understand that, but then you -- you approved

7 the payment; correct?

8 A. I approved the payment once the work was

9 complete, yes, and --

10 Q. Right.

11 A. -- it's confirmed.

12 Q. And why would you be approving payment directly

13 to Petro?

14 A. I don't know. That's just part of the job.

15 Q. Well, was -- did Vitol approve payment directly

16 to Petro on all the jobs?

17 A. No.

18 Q. Okay. So why were there some jobs that it did?

19 Sir, why were there some jobs that it did?

20 A. I don't know.

21 MR. KELSO: Objection. Asked and answered.

22 MS. ROHN: I -- I couldn't hear his answer.

23 BY MS. ROHN:

24 A. I don't know.

25 Q. So there was no -- did someone tell you to

42

1 that.

2 Q. How did IPOS get the money to pay it?

3 A. IPOS is reimbursed by Vitol.

4 Q. Did Vitol ever directly pay Petro?

5 A. I believe in some instances we did.

6 Q. And what about those instances resulted in Vitol

7 pay -- paying Petro directly?

8 A. I don't know.

9 Q. Well, who at Vitol would be in charge of deciding

10 when to and when not to pay Vitol -- Petro directly?

11 A. I don't know.

12 Q. How did you know that they were on occasions paid

13 directly?

14 A. I'd -- I'd seen some invoices for approval, and I

15 know that there were some wiring issues in some cases, some

16 cyber security wiring issues; so I was aware that we were

17 trying to make direct payment to Petro Industrial.

18 Q. You were trying to make direct payment on what?

19 A. To Petro Industrial.

20 Q. And when you say "wiring," are you meaning bank

21 wires or electrical wires?

22 A. Bank wires.

23 Q. And were you the person that had to approve the

24 invoices to have the wire -- the bank wiring occur?

25 A. In some cases, yes.

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1 approve those jobs for payment directly?

2 A. They were sent to us, yes, for approval and

3 payment.

4 Q. And who sent them to you directly for approval?

5 A. Uhm, in some cases our accounting department

6 would send it to us, depending on who they were -- they

7 were e-mailed to.

8 Q. I'm sorry. I heard sometimes it was the

9 accounting department and then I --

10 A. And then -- and then it come through various

11 modes of communication, through different personnel.

12 Q. Which would be who?

13 A. Accounting and -- mostly just the accounting

14 department.

15 Q. And who else?

16 A. I don't know. That's it. That's all I recall.

17 MS. ROHN: Exhibit 6, please.

18 (Quarterly Report (2Q 2019) was previously marked

19 as Exhibit 6 for identification.)

20 MS. ROHN: Can you scroll, please?

21 BY MS. ROHN:

22 Q. Do you generally recognize a document like this,

23 sir?

24 A. No.

25 MS. ROHN: If you could go to the top, Karima.

45

1 BY MS. ROHN:

2 Q. So you would not get a quarterly -- you would not  
3 receive the quarterly reports from IPOS. Is that your  
4 testimony?

5 A. Not that I recall.

6 MS. ROHN: And Exhibit 18.

7 (E-mail Bates No. CANNING 250 was previously  
8 marked as Exhibit 18 for identification.)

9 BY MS. ROHN:

10 Q. This is an e-mail from yourself to Coury Hodge  
11 and Andrew Canning, "Subject: Petro Industrial -  
12 Maintenance Budget."

13 And your e-mail of tj@vitool.com. That was your  
14 e-mail; is that correct?

15 A. Yes.

16 Q. Do you recall sending this e-mail?

17 A. No.

18 Q. Who did you understand Coury Hodge was?

19 A. Coury was an IPOS employee.

20 Q. What was his position?

21 A. He was the maintenance person.

22 Q. You know why his e-mail is cho@vtti.com?

23 A. No.

24 Q. Do you recognize that as a VTTI e-mail?

25 A. It says vtti.com, but if that's -- if that's what

46

1 you're inferring, then, yes.

2 Q. And do you recognize that there are people from  
3 VTTI that also used that same vtti.com e-mail?

4 A. No. I don't pay attention to the domain.

5 Q. It says "Coury/Andrew, after looking through the  
6 budget numbers, it appears that we spent close to 1 million  
7 with PI from July 18th to March 19th."

8 Is PI Petro Industrial?

9 A. I don't know. More than likely, yes.

10 Q. Okay. Was that unusual?

11 A. Was what unusual?

12 Q. To spend that amount of money on -- with Petro  
13 pursuant to their contract?

14 MR. KELSO: Object to form.

15 BY MS. ROHN:

16 Q. You may answer.

17 A. I don't know. All projects range in different  
18 prices and things like that.

19 Q. It goes on to say "There really isn't a breakdown  
20 in the figure, can you please provide what made up the  
21 total 1 million in maintenance costs (job works done and  
22 its cost)?"

23 Sir, if there were job data reports or job data books,  
24 wouldn't that tell you that information?

25 A. No.

47

1 Q. Tell me what's in a job data book.

2 A. Job data book is essentially a compilation of --  
3 of all the work that's done in the field. You have a lot  
4 of certifications. It's essentially a -- a document that  
5 ensures that everything was done properly in case of a  
6 catastrophic event.

7 Q. So when you say that it's a compilation of all  
8 the work done in the fields, wouldn't that include  
9 man-hours?

10 A. Not typically. I don't know exactly.

11 Q. So you don't know if a job data workbook includes  
12 man-hours?

13 A. No, I -- I don't recall. I don't remember.

14 Q. Well, sir, were any companies besides Petro  
15 expected to do job data books?

16 A. I don't know.

17 Q. Well, sir, did you ever see a job data book from  
18 any -- any company besides Petro?

19 A. No.

20 Q. And then it says "We'd like to have something  
21 early next week prior to another budget discussion."

22 Who were you having budget discussions with?

23 A. I don't know in that instance.

24 Q. Generally who did you have budget discussions  
25 with when Petro was involved?

48

1 A. Maybe Eduardo.

2 Q. Who?

3 A. Eduardo Garcia.

4 Q. Eduardo Garcia?

5 A. Yes.

6 Q. Anyone else?

7 A. No, not that I recall.

8 Q. Charlotte is not on this e-mail. Is there a  
9 reason that she would not have been included on this  
10 e-mail?

11 A. No, I don't know.

12 Q. Why is Mr. Canning included on this e-mail?

13 A. Andrew is involved with all the maintenance and  
14 the projects, the oversight for all of that; so that's the  
15 reason why I would include him.

16 Q. So would he attend budget discussions?

17 A. Not that I recall.

18 Q. And what was the -- what were the -- what was the  
19 budget for?

20 A. To keep track of how much money we're spending.

21 Q. And keep track of how much money you're spending  
22 where?

23 A. For the projects.

24 Q. At the -- at the terminals in -- in the  
25 Virgin Islands?

49

1 A. Yes.  
2 Q. And who would prepare these budgets?  
3 A. Eduardo would.  
4 Q. And up until the time you left, were there still  
5 be -- being budgets prepared?  
6 A. Not that I recall.  
7 Q. When did they stop being prepared?  
8 A. I -- I really don't know.  
9 Q. Well, sir, you were involved in the budgets, were  
10 you not?  
11 A. Not closely. Most of it was just some of the  
12 projects that I was involved with, but all the day-to-day  
13 stuff, I wasn't heavily involved with those budget calls.  
14 Q. Well, who besides you would have been doing that?  
15 A. Maybe Charlotte.  
16 Q. Well, sir, can you tell me why in November  
17 of 2019 you say after looking through the budget numbers?  
18 Why were you looking through the budget numbers?  
19 A. I was probably told to look at them.  
20 Q. Who would have told you that?  
21 A. Maybe Eduardo.  
22 Q. And what was Mr. Garcia's position?  
23 A. I think he was business development.  
24 Q. He was what?  
25 A. Business development.

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1 Q. And was Canning not allowed to go directly to  
2 Polaris?  
3 A. No.  
4 Q. Do you know why he was going through you to ask  
5 something of Polaris?  
6 A. Because we -- we had directly hired Polaris to do  
7 the third-party engineering.  
8 Q. We being Vitol Inc.?  
9 A. Yes.  
10 MS. ROHN: If you go to -- Karima, if you go  
11 to Exhibit 81, Bates-stamped 4054.  
12 (IPOS' First Supplemental Response to Plaintiff's  
13 Request for Production of Documents was previously  
14 marked as Exhibit 81 for identification.)  
15 MS. ROHN: Karima, can you get into 81?  
16 We're looking at -- looking for 4054.  
17 Okay. So to be more streamline, it's 10:50. I  
18 would like to take a short lunch break, like can we  
19 have lunch within 30 minutes, 45 minutes?  
20 MR. KELSO: Yes.  
21 MS. ROHN: And what I'm going to do, because I  
22 have a lot of exhibits out of 81, because 81 was a  
23 huge amount of documents, I'm going to just have the  
24 documents that we are going to use out of 81 and 66  
25 scanned in individually so we can just go one to the

50

1 Q. And do you know what his duties and  
2 responsibilities were as business development?  
3 A. No.  
4 MS. ROHN: Exhibit No. 19.  
5 (E-mail Bates No. CANNING 251 was previously  
6 marked as Exhibit 19 for identification.)  
7 BY MS. ROHN:  
8 Q. Appears to be another e-mail about the truck  
9 wrack, and there's an e-mail, April 10, 2019, from  
10 Andrew Canning to yourself.  
11 "Tim, Petro-Industrial have asked about the  
12 requirement for an additional pipe support for the propane  
13 supply line and the propane vapor return line for the truck  
14 loading rack where they exist -- exit the road crossing at  
15 the storage mound."  
16 And then he says "The concern is the span where the  
17 new line exist, the extension support on the existing pipe  
18 support, then assesses under the existing lines and enters  
19 the road crossing sleeve where the next support being  
20 located on the mound wall."  
21 And then it asked you, "Could you confirm with Polaris  
22 if the pipe stress levels are acceptable."  
23 Why were you involved with Polaris on this project?  
24 A. Polaris is the third-party engineering firm we  
25 used.

52

1 other, rather than going all through Exhibit 81. And  
2 I will do that during the lunch break.  
3 MR. KELSO: That's fine, Counsel. It's just  
4 before 10 o'clock in the morning here in Houston; so I  
5 suspect we will not eat right now. But we can take a  
6 longer break to allow you to go through this material.  
7 We may just have to take a slightly longer break, if  
8 we need to, when we get to like 12:30, 1:00 --  
9 MS. ROHN: Okay. How about if I suggest -- I  
10 forget you're in Houston. So sorry. How about if I  
11 suggest a 15-minute break so we can scan these in in  
12 an order so she can go from one to the next without  
13 having to go through all of -- all of the numbers, and  
14 we'll turn in 15 minutes?  
15 MR. KELSO: That would be fine.  
16 MS. ROHN: Okay. Thank you.  
17 (A recess was taken at this time.)  
18 BY MS. ROHN:  
19 Q. This comes from Exhibit 81, which has got  
20 hundreds of pages in it, and it is Bates-stamped 4054 to  
21 4071.  
22 MS. ROHN: Karima, can you scroll, please?  
23 Just briefly.  
24 Okay, that's good. You can go back to the top.  
25 BY MS. ROHN:

53

1 Q. This is an e-mail from David Smith dated  
2 April 4, 2019, to Eduardo Garcia at eg@vitol.com and  
3 Sebastian Moretti, and it's cc'd to Coury Hodge of --  
4 "Petro contract. As discussed, here is the contract."

5 Do you know why the contract between IPOS and Petro  
6 would be sent to Vitol Inc.?

7 A. No.

8 Q. Did you ever in the course of your business  
9 review Petro's contract?

10 A. No.

11 Q. Is this the first time you've ever seen this  
12 contract?

13 A. Yes.

14 Q. Next exhibit starts with Bates-stamped 3349 with  
15 373, 373. This is an e-mail, July 30, 2000 --

16 MS. ROHN: You have to go to the bottom.

17 No, the bottom of the first page. Sorry.

18 BY MS. ROHN:

19 Q. It's an e-mail, July 30, 2020, from  
20 Sebastian Moretti to David Smith, "Subject: Andrew Canning  
21 contract with Vitol."

22 And it says "Hi, David, and happy holiday! We are  
23 working on Andrew's contract and we would like to add  
24 Appendix 4 & 5 but both needs to be modified from VTTI to  
25 Vitol. Do you have the word format?"

54

1 Do you know why Mr. Canning's contract was apparently  
2 with Vitol?

3 A. No.

4 Q. Do you know whether or not Mr. Canning ever had a  
5 contract with VTTI?

6 A. Uh, no.

7 Q. Do you know whether or not Mr. Canning went from  
8 working for IPOS to VTTI?

9 A. No.

10 Q. And then if you go on the top of that page on  
11 July 3, 2020, from David Smith to Sebastian Moretti,  
12 "RE: Andrew Canning contract with Vitol?"

13 It says that "I think that Andrew and Eduardo had a  
14 discussion about it. But this is what IPOS currently uses.  
15 "And I'm attaching Petro's as an example as well."

16 Do you know -- did you -- were you ever aware that  
17 there was going to be a change in Canning's contract?

18 A. No.

19 Q. Were you involved at all in the contracting with  
20 Canning?

21 A. No.

22 MS. ROHN: I am going to skip an exhibit,  
23 Karima, and go to the one that's Exhibit -- from 74,  
24 Bates No. 3902 to 4073.

25 And if you can scroll down.

55

1 BY MS. ROHN:

2 Q. First of all, that's a VTTI with -- "USVI LPG  
3 Conversion Project, 1309, Volume 4, Piping Specifications,  
4 Welding."

5 MR. KELSO: Counsel, I'm sorry, before you go  
6 on, did you say Exhibit 74?

7 MS. ROHN: It comes out of Exhibit 74, yes.

8 MR. KELSO: Okay. Sorry. I think the witness  
9 is trying to locate it in the electronic version, and  
10 I just don't think it's attached.

11 MS. ROHN: No. That's why I put these in like  
12 this. He's gonna have to look at it on the screen.  
13 So I didn't want him to have to go through Exhibit 74  
14 and find those numbers.

15 MR. KELSO: Okay.

16 BY MS. ROHN:

17 Q. And this is for the -- have you ever seen this  
18 document before?

19 A. No.

20 MS. FRANCIS: Attorney, Rohn, could you  
21 identify the last Bates number on that?

22 MS. ROHN: Sure. It's 4073. There's a bunch  
23 of documents in here. Okay.

24 BY MS. ROHN:

25 Q. So this appears to be VTTI's Piping

56

1 Specifications for Welding. Do you dispute that?

2 A. I don't.

3 Q. And that it pertains to the USVI LPG Conversion  
4 Project?

5 A. Correct.

6 Q. Do you agree that the LPG Conversion Project is  
7 the WAPA terminals project?

8 A. Yes.

9 Q. Okay. Do you know why the VTTI piping  
10 specifications would be used on an IPOS project?

11 A. No.

12 MS. ROHN: And if you go to Bates No. 3904.  
13 And if you scroll down to "Applicable Codes &  
14 Standards."

15 That's it right there.

16 BY MS. ROHN:

17 Q. Do you see underneath there the "ASME Code for  
18 Pressure Piping, ASME Boiler & Pressure?"

19 Do you dispute that the ASME standards were the  
20 standards that were to be used on the Virgin Islands  
21 propane terminals --

22 A. I do not dispute --

23 Q. -- as to -- I'm sorry. What?

24 A. I said I do not dispute this is what's used, yes.

25 MS. ROHN: If you go to the 4073. I don't

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1 know why this is -- I picked this out and put it  
2 there. But there's a series of e-mails. That's the  
3 last page of the document, Karima.

4 That's it right there. No, keep going. That's  
5 it, 4073, right.

6 BY MS. ROHN:

7 Q. So this is an e-mail -- I don't know why, somehow  
8 it got attached to this. So this is an e-mail from  
9 yourself, if you look at the bottom. If you look at the  
10 bottom, it says from Tim, that's you, to David Smith,  
11 May 17, 2021, cc'ing Andrew Canning, Merlin Figueira,  
12 Sebastian Moretti, "St. Thomas E&I estimates."

13 Do you know what that's referencing?

14 A. I don't specifically, no. I don't know the  
15 context.

16 Q. It says "David, I spoke with Adrian a few weeks  
17 back on this and had requested support for the invoice. It  
18 was around the time they were busy with all the vent line  
19 work so he may have forgotten.

20 "I need to see time sheets and material support before  
21 I can approve them."

22 So, sir, were you not approving time sheets and  
23 material supports?

24 A. No.

25 Q. Why did you say "I need to see the time sheets

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1 and material supports before I can approve them?"

2 A. I need to see the sign-off time sheets from  
3 Andrew and the material purchase support before I can  
4 approve the invoice.

5 Q. Well, okay. And then there's an e-mail from  
6 David Smith to yourself about four minutes later, "Gents  
7 --" this goes to Chad Persuad and Adrian Melendez. "Gents,  
8 FY."

9 And then a May 26th e-mail at the top from  
10 Adrian Melendez to David Smith, Merlin Figueira, and  
11 yourself, and Santhia Rodriguez.

12 Then it says "Good afternoon, David, In speaking to  
13 Tim yesterday, we have send all supporting docs for this  
14 invoice and ready for payment from IPOS."

15 Do you remember having a conversation with  
16 Adrian Melendez where he showed you where you had those  
17 documents?

18 A. No, I don't recall.

19 Q. Do you recall ever disputing Mr. Melendez's  
20 representation that you had the documents, and they were --  
21 and you should be paying IPOS?

22 A. Again, I don't recall.

23 Q. Do you recall any facts to indicate why you would  
24 not pay that IPOS bill?

25 A. No.

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1 MR. KELSO: Object to form. Assumes facts.

2 BY MS. ROHN:

3 Q. Next exhibit starts out 4589 to 4598. And this  
4 starts out on the first page -- let's see here.

5 If you go to 4591 -- actually, 4590, there's an e-mail  
6 at the bottom from Merlin, September 5, 2020, to Eduardo,  
7 Charlotte, Sebastian, David Smith, Garry Stoker.

8 Who's Garry Stoker?

9 A. I -- I don't know. I think he was -- he was  
10 involved with IPOS. I think he might have been, uhm --  
11 might have been David's superior. I -- I don't know.

12 Q. Andrew Canning, Alexander Etienne.

13 Who's Alexander Etienne?

14 A. Alex was one of the facility managers in  
15 St. Croix.

16 Q. When you say "facility manager," what would that  
17 job entail?

18 A. Overseeing the facility, making sure everything  
19 is -- is running. He was typically the -- probably the  
20 point of contact. I believe he -- he kind of oversaw all  
21 the personnel there.

22 Q. Okay. And who's Calvin Schmidt?

23 A. Calvin, I believe, was another maintenance  
24 employee.

25 Q. And it says "Subject: Outage update. Ladies and

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1 gents, on behalf of the team I'd like to give you --"

2 MS. ROHN: Go to the next page. Go to 4591.

3 Okay, there you go.

4 BY MS. ROHN:

5 Q. "I'd like to give you an update on the outage.

6 At the end of today, we have:" And it list a bunch of work  
7 that's been done.

8 And then it goes, the next sentence, "We reached the  
9 desired milestone yesterday and today, now our milestone  
10 for tomorrow is the following:" Lists the items to be  
11 done.

12 And then it says -- if you go down, it says "We have a  
13 tailgate Safety Meeting each morning at 7am and an update  
14 Meeting at 3pm. Our team as well as a Contractor attend  
15 the Safety Meeting. In addition we invited the  
16 Preventative Maintenance Manager at WAPA for these Meetings  
17 and he has attended."

18 Do you know why Merlin Figueira would be making these  
19 reports to Charlotte and Sebastian?

20 A. Can you scroll up to the top of the e-mail?

21 Q. Sure.

22 A. Can we scroll down? I'm just trying to  
23 understand the context of the e-mail.

24 Q. Sure, of course. No worries.

25 A. If you go down to whatever he's replying to in

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1 the next segment?

2 Q. We don't have the e-mail he's replying to.

3 A. Oh, okay.

4 So what was your question?

5 Q. Do you know why these progress reports would be

6 -- being reported to -- to Eduardo, Charlotte, Sebastian?

7 A. No. I mean, it looks like he's giving them an  
8 update on one of the outages that were occurring. So Vitol  
9 supplies the propane to WAPA and obviously want to get them  
10 up and running; so he's likely just providing a high-level  
11 update on where things are at before we are able to  
12 restart.

13 Q. Okay.

14 MS. ROHN: And then if you go to the first  
15 page again, Karima.

16 BY MS. ROHN:

17 Q. Eduardo responds in the middle --

18 MS. ROHN: Down by -- towards the bottom.

19 Right there.

20 BY MS. ROHN:

21 Q. "Well done, Merlin. Thank you to the team for  
22 the dedication and time spent over this holiday weekend."

23 MS. ROHN: And then if you scroll to the top.

24 BY MS. ROHN:

25 Q. Merlin Figueira says on September 8, 2020, "It

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1 was indeed a Team effort; Alex -- Alex managed the Ops side  
2 of the Outage."

3 Do you understand that to be Alex Melendez?

4 A. No, that would be Alex Etienne.

5 Q. Was who?

6 A. Alex Etienne. I forget, E-t-t-i -- he was the --

7 Q. Oh.

8 MS. ROHN: And then if you go to Bates-stamped  
9 4592 in that document.

10 BY MS. ROHN:

11 Q. At the top of that page is an e-mail from  
12 Merlin Figueira to Charlotte Horowitz, Sebastian Moretti,  
13 and yourself, and it says -- and cc'd to Andrew Canning.  
14 And it says, "Subject: VI WAPA IPOS St. Croix Issue" the  
15 hashtag and then a number.

16 And there is -- if you scroll, this appears to be the  
17 answer. If you go to 4594 is where this starts.

18 And there is a -- there's an e-mail that says at the  
19 bottom on 4594, from Charlotte to Larry J. Mondy. It's  
20 dated January 29, 2021.

21 Do you know who Larry J. Mondy is?

22 A. I don't know, no.

23 Q. And do you know who Kevin Smalls is?

24 A. Kevin worked for WAPA.

25 Q. Okay. And it says "VI WAPA IPOS St. Croix

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1 Issue."

2 And then if you scroll up to the next page on  
3 February 1, 2021, from Larry Mondy. He appears to be  
4 somebody from WAPA. You see that?

5 A. Yes.

6 Q. February 1, 2021, to Charlotte copying  
7 Kevin Moretti. And it says "Good afternoon, After  
8 reviewing the documents I have a few additional questions."

9 And if you go to the next page, it has a listing of  
10 questions.

11 Have you ever seen this document -- this e-mail chain  
12 before, to your knowledge?

13 A. No.

14 Q. Okay.

15 MS. ROHN: Okay, and then if you go to 4593.

16 BY MS. ROHN:

17 Q. Charlotte sends an e-mail, "Merlin, do you think  
18 you can get these answered."

19 And then if you look above, you see where Merlin then  
20 sends on February 1, 2021, these questions to

21 Adrian Melendez?

22 Do you know why Adrian Melendez would be -- being  
23 asked to answer questions that WAPA had of IPOS?

24 A. No.

25 MS. ROHN: And then if you go to 4592.

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1 BY MS. ROHN:

2 Q. You see -- the bottom. Do you see where  
3 Adrian Melendez answers those questions?

4 A. Yes.

5 Q. And then if you go to the second page where it  
6 says -- there's a question. One of the questions was, "Is  
7 the work scope based on a complete outage of propane use  
8 since the pipes are next to each other? This would be a  
9 outage that lasts for over three weeks?"

10 And then there's an answer from Adrian. "Our plan is  
11 to weld the entire piping system and set it in-place or  
12 next to. Where the spacing is not available, extensions to  
13 the existing supports will be added. This will reduce our  
14 outage time to one to two days per unit with demoing of  
15 piping out of unit 17."

16 Were you aware --

17 A. Can you scroll back up? I'm sorry. I'm not able  
18 -- they scrolled down. I was -- there we go, okay. Thank  
19 you.

20 Q. Sorry.

21 "Our plan is to weld the entire piping system and set  
22 it in-place or next to. Where the spacing is not  
23 available, extensions to the existing supports will be  
24 added. This will reduce our outage time to one to two days  
25 per unit -- while the demoing piping out -- with the

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1 demoing piping out of unit #17."  
2 And then it says "What would work schedule be?"  
3 And the answer is "Our schedule will be 10 day shift  
4 per day, 5 days per week." I think he means 10-hour.  
5 A. Ten hours, yes.  
6 Q. So were you aware that there was -- as part of  
7 the work that was being done on the 3-inch vent line, a  
8 concern for how much outage time there would be?  
9 A. No, but it would be in their interest to make it  
10 as quickly as possible so that we can continue to supply  
11 WAPA, 'cause they have a limited supply of diesel fuel.  
12 Q. And were you aware that part of the cost of Petro  
13 doing the work was to pay overtime to its crew and to -- to  
14 do its best to minimize the outage times?  
15 A. I don't recall that.  
16 MS. ROHN: Go to the top of page 4592.  
17 BY MS. ROHN:  
18 Q. There is an e-mail from Merlin then sending  
19 Adrian's e-mail answers to Charlotte, Sebastian, and  
20 yourself. Do you see that?  
21 A. Yes.  
22 Q. So you were aware that, were you not, that he was  
23 planning on doing ten-hour days, five days a week, and  
24 actually going to the effort of doing all the piping work  
25 instead of doing the piping work as it was in place?

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1 done at the facility and -- so we would obviously want to  
2 be involved with -- with what we're spending.  
3 MS. ROHN: Okay, if you go to 4596 at the  
4 bottom page. 4596.  
5 BY MS. ROHN:  
6 Q. Then there's an answer from Kunal Patal to  
7 Charlotte.  
8 Then the second paragraph on the page 4597 says "In  
9 regards to the 1.3 million, 900k is what we project Petro  
10 labor to be both islands for the year, and the remaining  
11 401 -- 400k will be the 2.8% inflation factor, landscaping,  
12 freight/customs clearing on M&R items."  
13 Would the figure of 1.3 million to 900k be  
14 inconsistent with what you had looked at for Petro's labor  
15 on a yearly basis?  
16 A. I would -- I wouldn't know. I -- I didn't look  
17 at their -- the budget every year. I wasn't heavily  
18 involved with it.  
19 Q. Okay.  
20 MS. ROHN: Next exhibit is out of Exhibit 74.  
21 I mean -- yeah. It is Bates stamps 3896 to 3901.  
22 BY MS. ROHN:  
23 Q. Those appear to be, if you scroll through them,  
24 the Welder Performance Qualification Record for various  
25 welders for Petro.

66

1 A. On the basis of this e-mail, I would have seen  
2 it, but it wasn't something that I was directly involved  
3 with making those decisions.  
4 Q. How much involvement did you have in the 3-inch  
5 vent line?  
6 A. Not a whole lot. Everything was done through  
7 IPOS to get the completion of the project done.  
8 Q. If you go to Bates-stamped 4597, and go to the  
9 middle of the page, dated May 10, 2021, there's an e-mail  
10 from Charlotte to Kunal Patal.  
11 Do you know who Kunal Patal is?  
12 A. Yeah. I believe he was the accountant for IPOS.  
13 Q. Okay. And it says "M&R wish list 2021, 2022."  
14 Do you know what M&R is?  
15 A. Let's see. No. It's maintenance and something.  
16 Q. And it says, "With our attached list, can you  
17 complete -- complete the vendors who will be responsible  
18 for this work and answer the questions in yellow. Also,  
19 can you check to see if any other items can be deferred.  
20 "I noticed there was a 1.3 million in M&R before the  
21 wish list was added."  
22 Why would Vitol Inc. be looking at the wish list for  
23 the propane plant?  
24 A. Uhm, I -- I don't know. I mean, it -- we  
25 obviously we -- the process is we pay for the work that's

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1 MR. KELSO: Objection.  
2 MS. ROHN: Can you scroll, please?  
3 MS. FRANCIS: Can you identify the last Bates  
4 number? I didn't hear what you said.  
5 MS. ROHN: Yeah. 3901.  
6 BY MS. ROHN:  
7 Q. So have you -- do you recall ever having seen  
8 these welding qualification records before, these WPQs?  
9 A. No.  
10 Q. Do you know what a WPQ is?  
11 A. Based off the letterhead, it's Welder Performance  
12 Qualification Record.  
13 Q. Had you ever asked for any Welder Performance  
14 Qualification Records from Petro?  
15 A. We requested job data book information, which  
16 includes their qualifications.  
17 MS. ROHN: Karima, if you go to the start of  
18 that document, 3896, which is where you are.  
19 BY MS. ROHN:  
20 Q. This is a qualification for Edgardo Batista.  
21 MS. ROHN: And if you'll scroll to the bottom  
22 of page.  
23 BY MS. ROHN:  
24 Q. This is dated February 19, 2021. And you see  
25 where it says "Visual Examination Results: Face:

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1 Acceptable. Root: Acceptable. Welding Test Conducted By:  
 2 Guillermo Castro."  
 3 You see that?  
 4 A. Yes.  
 5 Q. And Acuren, by -- and then it's dated  
 6 February 19 2021; correct?  
 7 A. Correct.  
 8 Q. And then if you go to the next page, and go to  
 9 the bottom. This one is to Bernardo Cruz,  
 10 February 19, 2021, same Guillermo.  
 11 And if you go to the next page, 3898, as to  
 12 George Rodriguez, go to the bottom, same Guillermo Castro,  
 13 same February 19, 2021.  
 14 All right. And then if you go to the next page, 3899,  
 15 it's for Fernando Lebron, same Guillermo Castro. But this  
 16 one is April 1, 2021.  
 17 And then there's a next one, Jonathan Rodriguez,  
 18 April 1st.  
 19 MS. ROHN: If you scroll down to the bottom.  
 20 BY MS. ROHN:  
 21 Q. April 1, 2021.  
 22 And the last page it says to Richael Philips. If you  
 23 scroll to the bottom, March 22, 2021.  
 24 Do you know why these were being turned in for  
 25 different dates?

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1 Do you know what this is talking about?  
 2 A. I -- I don't. It's -- it's pretty vague. I  
 3 don't know the full context.  
 4 Q. If you go -- if you go to 4385, there's an e-mail  
 5 from you that's the same day but at night, 6:19, to  
 6 Merlin Figueira cc Charlotte.  
 7 "Dear Merlin and Adrian, per our conversation on  
 8 Tuesday, you will be providing WAPA with all the job book  
 9 documentation for this project. This includes the  
 10 engineering/design/scope/construction documentation for  
 11 them to review - and after completion for their records as  
 12 this work is being done on their property.  
 13 "Can you please send over the following."  
 14 MS. ROHN: If you go to the page 4836. Go  
 15 up. Up to 4836. Next page. There you go.  
 16 BY MS. ROHN:  
 17 Q. You have --  
 18 MS. ROHN: Up to the top. There you go.  
 19 BY MS. ROHN:  
 20 Q. You have a listing of what you need for the job  
 21 data book; correct?  
 22 A. That's what it looks like, yes.  
 23 Q. Where did you get this list from?  
 24 A. This would have been provided by WAPA.  
 25 Q. So there should be a document from WAPA to

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1 A. I do not.  
 2 Q. Did you ever question any of those welder  
 3 certificates?  
 4 A. I never saw them, so no.  
 5 Q. Who would have seen them?  
 6 A. Uhm, IPOS and Andrew.  
 7 MS. ROHN: If you go to out of Exhibit 81 IPOS  
 8 4836 and goes in reverse order to 4834.  
 9 BY MS. ROHN:  
 10 Q. If you start at the 4834, there is an e-mail from  
 11 Adrian Melendez to -- to Merlin Figueira,  
 12 February 24, 2021, copy to yourself and Charlotte, "Re:  
 13 St. Croix - Vent Piping Project WAPA Deliverables."  
 14 And it is -- says to Merlin. "Merlin, I can help out  
 15 with the support for replacement of the pipes including the  
 16 inspection reports."  
 17 And then if you go up, there's an e-mail from  
 18 Merlin Figueira, "Ok, Adrian, let's discuss tomorrow to see  
 19 that we have what is requested. I may need your drawing  
 20 that show the existing lines to show what is going to be  
 21 demolished."  
 22 And if you scroll up, on February 24th, Mr. Adrian  
 23 replies -- Melendez replies, "Merlin, I will be in and out  
 24 of flights tomorrow but I will call you between my layover  
 25 and see if I can figure something else."

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1 Vitol Inc. as to what documents they wanted?  
 2 A. It -- it might have been via phone call where I  
 3 took notes on specifically what they wanted. There was  
 4 communication between knowing what they -- what they  
 5 wanted.  
 6 Q. Okay. So did you have this conversation with  
 7 WAPA about what they wanted?  
 8 A. Possibly. It more than likely would have been  
 9 like a kickoff call or a project call more than likely.  
 10 Q. Okay. Who would be on a project call?  
 11 A. Myself and IPOS and WAPA would have been on that  
 12 call for this particular project.  
 13 Q. Would Charlotte have been on the call?  
 14 A. Possibly. I don't recall if she was on it or  
 15 not.  
 16 Q. Okay. And who from IPOS would have been on it?  
 17 A. I would have presumed the ops manager and  
 18 potentially the facility manager.  
 19 Q. And who are those by name?  
 20 A. At that point I think Merlin was still the  
 21 operations manager; so it would have been Merlin and then  
 22 potentially Alex.  
 23 Q. Okay. And so "Prior to the commencement of the  
 24 work," number one, "Support for the pipe replacement which  
 25 confirms that it will meet or exceed requirements for

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1 operation."

2 Did you get that from Adrian?

3 A. I don't recall.

4 Q. Wasn't that what that e-mail we just went through  
5 about can you get me these documents?

6 A. I asked for those documents. I don't recall if I  
7 received them.

8 Q. Well, is there a job data book?

9 A. There should have been a job data book.

10 Q. Did you ever construct a job data book?

11 A. It's not my responsibility to construct it. It's  
12 the contractor's responsibility to put together all these  
13 documents. It's a standard procedure with -- with any kind  
14 of project. They -- they -- the contractor would have put  
15 all this together, provided it to us at the completion of  
16 the project.

17 Q. And who would it have been provided to?

18 A. IPOS.

19 Q. Who at IPOS?

20 A. I don't know. Probably with Merlin.

21 Q. "Demolition and LO/TO P&ID markups."

22 Did you receive -- was that received?

23 A. Again, I don't recall.

24 Q. "Permits." Was that received?

25 A. I don't recall.

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1 project, you can't remember ever doing a job -- requesting  
2 a job data book; isn't that true?

3 A. For Petro Industrial?

4 Q. For the Virgin Islands propane terminals.

5 A. It's a -- again, it's a standard industry  
6 practice to provide a job data book for these types of  
7 projects everywhere.

8 Q. That's not my question. My question is: Did you  
9 ever send an e-mail like this to Petro telling them what  
10 materials you want on any other job except this one?

11 A. Me specifically, I don't know. I don't recall.

12 Q. And then it says "After construction completion,  
13 Weld maps, Welder certs, NDT certifications, NDT reports,  
14 Hydrotest procedures and reports, Inspection reports, MTR's  
15 and Bill of material."

16 Sir, did you get the weld maps?

17 A. I -- again, I don't recall.

18 Q. Did you get welder certificates?

19 A. I don't recall.

20 Q. But you saw some, didn't you, sir?

21 MR. KELSO: Object to form.

22 BY MS. ROHN:

23 Q. What did you understand NDT certificates to be?

24 A. Those are x-ray tests to ensure that the welds  
25 are done properly and are pure and no impurities.

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1 Q. And then "Any additional information that would  
2 be worth noting to WAPA prior to construction."

3 How would Mr. -- How would Petro know what you're  
4 referencing?

5 A. They have a lot of experience constructing and  
6 doing projects and maintenance within these facilities,  
7 WAPA and IPOS specifically; so any additional highlights  
8 that they'd like to make, then, you know, we'd like them to  
9 bring it to our attention with their -- with their  
10 thoughts.

11 Q. So but how would Petro specifically know what you  
12 were requesting?

13 MR. KELSO: Objection. Asked and answered.

14 BY MS. ROHN:

15 Q. You could answer.

16 A. What was the question again?

17 Q. How would Petro know specifically what you were  
18 requesting? Is this something that you can just change at  
19 any time and say now I want this, now I want this?

20 A. No. The job data books are standard with any  
21 kind of construction project. You do this anywhere around  
22 the world, and it's very common to have everything that I  
23 just listed here to be in that job data book.

24 Q. But I think you previously testified that you

25 can't remember doing another -- other than maybe the one

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1 Q. What's an NDT report?

2 A. It's a non-destruct test, I think, or  
3 non-destructible test.

4 Q. Do you know what exactly what it is?

5 A. What the actual report is?

6 Q. Uh-huh.

7 A. It confirms that the weld was good.

8 Q. Okay. What's a hydrotest procedures and reports?

9 A. It's a pressure test for the pipe. You have  
10 specific procedures you have to follow for them to be, you  
11 know, done standardized, and the reports are all of the  
12 pressure documentation that goes along with that to ensure  
13 that it was done correctly to the proper standards and  
14 procedures.

15 Q. And inspection reports, what's -- what is -- what  
16 is referred to as, quote, inspection reports?

17 A. In some cases, projects have a -- an inspector,  
18 so basically they -- they get a highlight of what was done  
19 for that particular day and what was done and any kind of  
20 findings and -- and things like that.

21 Q. MTRs, what are those?

22 A. They're documents, material -- I think it's  
23 material traceability report. It shows the origin of that  
24 particular material, whether it's pipe or valves. It  
25 traces it back over the origin in case there is some kind

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1 of a failure or anything then they can trace it back.

2 Q. And bill of material, what is that?

3 A. A list of all the material required for the  
4 project.

5 Q. And do you recall, sir, that there were MTR  
6 documents for materials traceability. And, in fact, as a  
7 result of that, it was determined that some of the product  
8 had come from China?

9 A. I -- I vaguely remember that, yes.

10 Q. So are you disputing that you were provided with  
11 the MTR documents for material traceability?

12 A. I'm denying that 'cause I -- I don't remember  
13 specifically seeing the MTRs. It was relayed to me that  
14 some of the material was in fact of Chinese origin.

15 Q. Well, they would know that from traceability  
16 reporting, wouldn't they?

17 A. Correct, but I did not see the MTRs.

18 Q. Would you normally see the MTRs?

19 A. No.

20 Q. Did you ever follow up on this e-mail to  
21 determine whether or not the documents had ever been  
22 produced by Petro?

23 A. The job data book information, all this?

24 Q. Yes.

25 A. Yes, I believe that I had followed up after WAPA

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1 requested the documentation.

2 Q. Well, there were certain documentation that were  
3 supposed to be given prior to the commencement of work.  
4 Would you agree with me that that documentation was given  
5 because you couldn't have commenced the work?

6 A. I suppose so. That would have been approved by  
7 IPOS to -- to give them the approval to start the work.

8 Q. And are you aware of any particular document that  
9 Petro had not given that WAPA was asking for?

10 A. In the longevity of the entire project?

11 Q. Yes.

12 A. It's my understanding that there are still  
13 outstanding documents that need to be provided for the job  
14 data book for that project.

15 Q. What are those documents?

16 A. I don't know specifically. I know that there  
17 were a couple of the items that were still missing from the  
18 job data books.

19 Q. But you don't know what they are?

20 A. I don't.

21 Q. Where did you get that information?

22 A. I received that from IPOS and -- and more than  
23 likely Andrew as well.

24 Q. Who at IPOS?

25 A. It would have probably been Merlin.

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1 Q. And do you recall what Andrew Canning told you  
2 about the supposed missing documentation?

3 A. I don't recall, no.

4 Q. Did you ever make any efforts to check what  
5 Mr. Canning was telling you about Petro to see if it was  
6 true or not?

7 A. No. He was our eyes and ears in the field; so  
8 he's gonna have a better understanding than I would since  
9 I'm not on the islands.

10 MS. ROHN: All right, if you go to -- out of  
11 Exhibit 81, Bates stamps 4861 to 4859. And we'll  
12 start at 4859. No, I lie. This one it goes the other  
13 direction.

14 BY MS. ROHN:

15 Q. Okay. So the top of this document, so 4861, is  
16 your e-mail; correct?

17 A. Correct.

18 Q. Dated February 24, 2021, at 6:19.

19 A. Yes.

20 Q. And if you go to the next page, there's an e-mail  
21 from Merlin to Charlotte. "With collective support from  
22 Andrew and Adrian we were able to complete the following:  
23 "Design check on suitability of 304L Stainless pipe as  
24 replacement.

25 "LOTO for GT16, 17 and 20.

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1 "Demo and replacement shown on the respective P --  
2 P&ID."

3 Why would Merlin be sending that to Charlotte?

4 A. I don't know.

5 Q. Okay. And then there is an e-mail from Charlotte  
6 at 7:33 p.m., to Merlin, yourself, and Adrian Melendez.

7 "Merlin, Sebastian is requiring the following before  
8 starting work because we need to pass them to WAPA. Can we  
9 get them before Monday?

10 No. 1, "Support of pipe replacement which confirms  
11 that it will meet or exceed the requirements for the  
12 operation and the demolition of LO/TO, ID -- P&ID markups."

13 Do you know why that was sent to Adrian?

14 A. It would have been -- I don't know. It looks  
15 like it was sent to Merlin actually.

16 Q. It was c -- it was copied to Adrian.

17 A. He was cc'd in there.

18 Q. Okay.

19 A. We would have needed the -- we would have needed  
20 this documentation prior to starting the project due to  
21 WAPA requirement.

22 Q. So if you look back at 4861 or go forward to  
23 48 --

24 MS. ROHN: Yeah, up there to 4861.

25 BY MS. ROHN:

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1 Q. There were four requirements before work was to  
2 begin. You're only sending to Adrian the top two; correct?  
3 A. I don't understand the question.  
4 MR. SIMPSON: Objection.  
5 BY MS. ROHN:  
6 Q. If you look at prior -- if you look at prior to  
7 the commencement of the work, there are four bullet points.  
8 The first one is "Support of the replacement which confirms  
9 it will meet or exceed requirement for operation."  
10 The second one is a demolition of LO/TO, the third is  
11 permits, and the fourth is any additional information.  
12 If you go to the e-mail where Adrian is copied on the  
13 next page, there's only -- on the -- on the e-mail from  
14 Charlotte, where Mr. Petro -- where Petro is copied.  
15 MS. ROHN: Please go down. Right there.  
16 BY MS. ROHN:  
17 Q. The only two that's being sent to Adrian are  
18 those two bullet points; correct?  
19 MR. KELSO: Objection. Misleading. Misstates  
20 the document.  
21 BY MS. ROHN:  
22 Q. Do you see anything else -- do you see permits or  
23 anything else WAPA might need?  
24 A. Not in her e-mail, no, but they may have provided  
25 them already.

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1 she sees invoices for this project not to pay them."  
2 Do you know why that was?  
3 A. No.  
4 Q. Well, if you go to the bottom -- well, if we  
5 scroll down, Merlin -- e-mail from Merlin to Charlotte. It  
6 says "Charlotte, I've checked with Adrian about the project  
7 writeup and he tells me that he provided everything now to  
8 Tim, and apparently he is good with it. If that isn't the  
9 case, let me know. Merlin."  
10 So, sir, didn't you get that documentation?  
11 A. Again, I don't recall. I don't know.  
12 Q. Will you dispute Charlotte's representation that  
13 you'd gotten the documentation?  
14 A. I -- again, I don't recall. I need to see the  
15 whole context of -- of what occurred.  
16 Q. And then there's an e-mail below that from  
17 Charlotte to Merlin and Adrian. Charlotte says, "Merlin -  
18 thanks for this information."  
19 And then "Adrian - please know this project will be  
20 paid directly by Vitol Virgin Islands Corporation, not via  
21 IPOS. Tim will be sending a PO --" purchase order --  
22 "number which should be on each of your invoices."  
23 So, sir, isn't it correct, sir, that this project was  
24 not an IPOS project; it was a Vitol project?  
25 A. It was an IPOS project, but Vitol was paying it

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1 Q. Go ahead.  
2 Who provided them already?  
3 A. I would presume that Petro had -- had already  
4 provided them.  
5 Q. Do you know that, sir?  
6 A. I don't, no.  
7 Q. Why would Petro get the permits?  
8 A. It's -- it's standard to have the contractor  
9 ensure that they have all the proper permitting to do the  
10 work.  
11 Q. Okay. And then on February 24th at 4:45, I think  
12 that's because of the time difference between Houston and  
13 the Virgin Islands, there's an e-mail to you from Merlin,  
14 "Tim, We will have the documents listed for your files and  
15 for onward transfer to WAPA."  
16 See that?  
17 A. Can you scroll back up?  
18 Q. Sure.  
19 A. There you -- right there. That was it.  
20 I see that e-mail, yes.  
21 Q. Then if you go to the next e-mail on  
22 February 25th, at 11:51, there is an e-mail from Charlotte  
23 to Merlin, which says "Will -- Will do. Thanks for your  
24 help.  
25 "Also, please tell the lady who does the billing if

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1 directly.  
2 Q. Why?  
3 A. I don't know.  
4 And whenever she was saying that she was going to  
5 withhold payment or asking to withhold payment until we get  
6 everything, it may have been due to IPOS not paying for  
7 this project and with the intent that Vitol was going to  
8 pay for it as well, so essentially, having double dipped on  
9 the invoicing. That may have been what she was referring  
10 to, but I don't know the full context.  
11 Q. Okay. I have no clue.  
12 Who was double dipping?  
13 A. I'm sorry?  
14 Q. Who may have double dipped?  
15 A. If -- if these bills are being sent out to IPOS,  
16 typically they pay them directly. In this case, we were  
17 responsible -- were going to be responsible for paying for  
18 the invoices; so they just want to make sure that IPOS  
19 didn't pay for them and then passes that invoice as well  
20 and we pay them. So I think there may have been some  
21 communication there to clear that up. But, again, I'm not  
22 sure exactly the full context of what she meant.  
23 MS. ROHN: Okay. This is 4 -- the next  
24 exhibit -- the next exhibit is out of Exhibit 81,  
25 6739, 6738.

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1 And if you go to -- oops. I skipped one, Karima,  
2 so...  
3 If you go to the second page of this document.  
4 BY MS. ROHN:  
5 Q. This goes back --  
6 MS. ROHN: 6738.  
7 You're on the wrong document. This document --  
8 yeah, I see what you're doing. I want to go to 6738.  
9 There we go.  
10 If you'll scroll down.  
11 BY MS. ROHN:  
12 Q. There's -- there's Charlotte's --  
13 MS. ROHN: Hold on, right there.  
14 BY MS. ROHN:  
15 Q. There's Charlotte's e-mail from  
16 February 24, 2021, listing the two bullet points. You see  
17 that?  
18 A. Yes.  
19 Q. Okay.  
20 MS. ROHN: And if you scroll up, Karima.  
21 BY MS. ROHN:  
22 Q. There's an e-mail --  
23 MS. ROHN: Scroll up, please. There -- thank  
24 you. Just scroll down a little bit.  
25 BY MS. ROHN:

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1 (Off the record due to disconnection.)  
2 BY MS. ROHN:  
3 Q. If you go to 4864, this is the e-mail we just  
4 looked at, correct, from February 25th?  
5 MS. ROHN: Karima, go to 4864, please.  
6 BY MS. ROHN:  
7 Q. Correct. That's the e-mail, correct, that we  
8 just discussed?  
9 A. Can you scroll down a little bit?  
10 Q. Sure.  
11 A. Thank you.  
12 Yes.  
13 Q. If you go to page 4863, which is the next day,  
14 February 26th, from Charlotte to Adrian, copy to -- copy to  
15 you.  
16 "Hi Adrian, I received your revised budget from Tim.  
17 We will need an itemized breakdown of why the cost has  
18 changed from" bah, bah, bah "for WAPA."  
19 "I would like to see the below format for the original  
20 quote (which I assume you have, as this is how you would  
21 have created the original quote) so WAPA can see exactly  
22 where the quote changed."  
23 MS. ROHN: And if you go to the next page.  
24 MR. SIMPSON: Objection.  
25 BY MS. ROHN:

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1 Q. There's an e-mail from Adrian Melendez to Merlin,  
2 which says, "Merlin. I can help out with the support for  
3 the replacement of pipes including the inspection reports."  
4 Do you dispute that in fact Adrian did go and get  
5 those documents and give them to Merlin?  
6 A. I don't know if he ever did.  
7 Q. You don't know that he didn't either, do you,  
8 sir?  
9 A. I don't.  
10 MS. ROHN: Next document is -- next document  
11 is -- I've skipped some. It starts out 038 -- 3842.  
12 BY MS. ROHN:  
13 Q. And you see that on February 25, 2021, you said  
14 -- you say, from Tim to Charlotte, Merlin, Adrian,  
15 Andrew Canning, Sebastian Moretti, David Smith?  
16 A. I see that, yes.  
17 Q. "Attached is the purchase order along with the  
18 quote documentation.  
19 "Please ensure your invoices have both the PO number  
20 and requisition number on them when sent to us."  
21 So you were aware of the purchase order and sent that  
22 to Adrian; correct?  
23 A. Yes.  
24 MS. ROHN: Next document is 4863 to 69. If  
25 you go to 4864.

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1 Q. If you go to the next page. If you go to 4864,  
2 you see that there? Is that the normal way for which you  
3 expected quotes on this project?  
4 A. It's pretty blurry, but the quote wasn't very  
5 detailed.  
6 Q. Well, it says "Breakdown of Labor," and it has  
7 supervisors and different categories, Breakdown of  
8 Equipment and Materials and Materials Costs."  
9 See that?  
10 A. Vaguely.  
11 Q. Yeah, well, this is the copy I got.  
12 A. Okay.  
13 Q. So do you acknowledge that that was the original  
14 budget that Charlotte is referencing?  
15 A. Again, I don't recall. I don't know. It might  
16 have been. But it looks familiar in terms of the format.  
17 Q. And Adrian replies on February 28th and copies  
18 you, "The additional costs are related to the updated plan  
19 to deconstruct GT No. 16 and add/extend to existing  
20 supports to be able to construct the new --"  
21 MS. ROHN: Scroll up, please. Go to page  
22 4863, please. And if you'll scroll to the top. There  
23 we go.  
24 BY MS. ROHN:  
25 Q. "Existing supports to be able to construct the

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1 new SS piping system parallel to the existing vent line to  
2 GT 20 and GT 17. We will complete the entire piping system  
3 to each GT, including NDT and hydrotest, prior to  
4 deconstructing the existing systems which again is a change  
5 to the original planning."

6 Do you dispute that the -- that Petro actually did the  
7 NDT and hydrotest as they're confirming in this e-mail that  
8 they're going to do?

9 A. I don't know if they did it or not. I wasn't in  
10 the field to verify.

11 Q. And then it says "Please see the attached  
12 breakdown of labor and equipment. As you will see on the  
13 attachment, changes in labor include additional time for  
14 demoing and welding of supports; and additional time for  
15 equipment." And gives the number.

16 Do you recall receiving this e-mail?

17 A. Vaguely, yes.

18 Q. Do you recall disputing any of the increases of  
19 costs?

20 A. Uhm, again, I don't recall whether I did or not.

21 MR. KELSO: Counsel, we've been going for  
22 about another hour. Whenever you're in a position to,  
23 I think it would be nice to a short break.

24 MS. ROHN: Okay. I'm just going to do this  
25 one because it's the same date, and then -- it's 12:30

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1 meeting he's referring to, but if it would have been the  
2 Vitol ops meeting, it would have been me and Charlotte on  
3 the call.

4 Q. All right. And then it says "On Tuesday this  
5 week, I verbally informed Damien, Maintenance Supervisor  
6 St. Croix, to expect the vent piping project to restart  
7 next Monday."

8 If you scroll up, there's one from Charlotte that  
9 says --

10 MS. ROHN: Scroll up. You're going down.

11 Up.

12 BY MS. ROHN:

13 Q. Says "Ok, let me know when this is confirmed with  
14 Petro."

15 And at the top it says from Merlin, "Already confirmed  
16 with Petro.

17 "Also, even though Damien was aware, I am now going to  
18 e-mail WAPA so there are no unnecessary delays on issuance  
19 of Work Permits on their side."

20 Isn't it a fact that the permits had to come from  
21 WAPA?

22 MR. KELSO: Counsel, we can't see the  
23 document.

24 BY MS. ROHN:

25 A. Can you scroll up, please?

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1 here; so I would suggest we break for lunch after I do  
2 this one. Is that okay with you?

3 MR. KELSO: Fine. Yes.

4 MS. ROHN: Okay. So the next one starts 4842  
5 to 4845.

6 BY MS. ROHN:

7 Q. This is the -- there is a discussion about  
8 restarting the vent line previously. On March -- on the  
9 front page here, there's a from Merlin Figueira to  
10 Charlotte, copy to yourself and Andrew Canning, "Vent  
11 Piping restart."

12 And it says "I believe at yesterday Ops Meeting I  
13 spoke of the 3-inch Vent piping on Monday --"

14 MS. ROHN: Come to the bottom, please. Sorry.

15 Just that first page -- front page. There we go.

16 BY MS. ROHN:

17 Q. This is from Merlin. "I believe at yesterday Ops  
18 Meeting I spoke of the 3-inch Vent piping restarting on  
19 Monday next week as new piping materials are already  
20 onsite."

21 Who would attain -- who would attend these ops  
22 meetings?

23 A. Depends. So they had a meeting with WAPA weekly,  
24 and then they also had a meeting with Vitol or me and  
25 Charlotte weekly. So if this -- I don't know which ops

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1 MS. ROHN: Scroll up, please. Up. There you  
2 go.

3 BY MS. ROHN:

4 A. Just give me a second to read.

5 Q. Sure.

6 So it was IPOS and WAPA that were in charge of the  
7 permits, isn't that correct, sir?

8 MS. FRANCIS: Objection. Foundation.

9 BY MS. ROHN:

10 Q. You may answer.

11 A. There are different types of permits that are  
12 acquired by certain individuals. The terminal and WAPA  
13 would issue work permits, so like hot work permits,  
14 basically just giving the permit to do work within the  
15 facility. So I don't know what specific permits they were  
16 referring to here.

17 MS. ROHN: Okay. Let's take a break.

18 45 minutes, that give everybody time?

19 MR. KELSO: Yes.

20 MS. ROHN: Okay.

21 (A luncheon recess was taken at 12:49 p.m.)

22 (The afternoon session resumed at 1:27 p.m.)

23 MS. ROHN: Karima, I need the exhibit that  
24 starts 6702 to 6708 out of 66.

25 MR. KELSO: Sorry. Are we back on the record?

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1 MS. ROHN: Yes, we are.  
2 So this is 6702 to 6708, please.  
3 We're not seeing it on the screen, Karima.  
4 (Off the record.)  
5 BY MS. ROHN:  
6 Q. If we can go to start of this e-mail, 6703, which  
7 would be --  
8 Okay. This is an e-mail March 3, 2021, from Adrian to  
9 the team, Merlin, Andrew Canning, Chad Persuad, Alex, and  
10 David Smith.  
11 And it says "Good afternoon Team, Setup welding tent  
12 and cover it with plastic as wind breaker, barricade areas  
13 to demo. Demo 90 feet of pipe."  
14 So goes on to list what was done. Then it says, the  
15 last sentence of -- of what was done.  
16 To your knowledge, was it supposed to be daily  
17 statements of work done as part of documentation of the  
18 work done on the vent line?  
19 A. I don't recall specifically. I know that we had  
20 requested some weekly updates just so that we were in tune  
21 with what was going on and, you know, we were in tune with,  
22 you know, what WAPA was -- was also seeing done on the  
23 property.  
24 Q. And then there's an e-mail on March 5th from  
25 Adrian.

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1 Q. See that?  
2 A. Yes.  
3 Q. Was there any requirement that Mr. Canning give a  
4 weekly update?  
5 A. Not that I recall.  
6 Q. All right.  
7 A. It wouldn't be uncommon, though, 'cause we would  
8 have weekly calls. But I don't believe we ever had a  
9 requirement, to my knowledge, for him to send anything.  
10 Q. Then there's an e-mail on 6706 from  
11 March 24, 2022.  
12 MS. ROHN: And if you go to the bottom of  
13 6706. There we go.  
14 BY MS. ROHN:  
15 Q. There's an e-mail from David Smith to  
16 Merlin Figueroa -- Figueira. "Good morning Merlin, Petro  
17 was in Houston a few weeks back and asked to meet  
18 Sebastian, Tim, and Charlotte.  
19 "I guess they called them and said tomorrow so they  
20 are going. Chad called to tell me and ask me about  
21 Sebastian.  
22 "They say they really don't have reason, just thought  
23 when they were there it would be nice.  
24 "I told them be honest and direct and factual."  
25 Do you recall having a meeting with Adrian and Chad?

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1 MS. ROHN: If you go to the page before. Go  
2 up. It's 6702. At the bottom of 6702.  
3 BY MS. ROHN:  
4 Q. There's a "Good morning," and then if you go to  
5 the top of 6703, there's another listing of work to be done  
6 and work that was done and what's going to be done.  
7 Does that refresh your recollection at all about the  
8 -- the requirements of -- of documenting this on a daily  
9 rather than a weekly basis?  
10 A. No.  
11 Q. And then on 6702 there's an e-mail from  
12 Andrew Canning, sent March 5th to Moretti, Horowitz, and  
13 yourself, so you would have gotten this chain, and  
14 David Smith, "Subject: 3/4/21 SS Line Progress."  
15 Is that the same thing as -- as the 3-inch vent line?  
16 A. I believe it is.  
17 Q. And then it says "Situation update as of 09:00  
18 Friday, 5th March," and then he gives an update.  
19 And then David Smith sends an e-mail to Merlin, "Not  
20 sure why Andrew sent this?"  
21 And Merlin says, "Not sure why he did so other than  
22 they asked this of him or he is just trying to justify his  
23 work."  
24 MS. ROHN: Scroll up, please, Karima. Up.  
25 BY MS. ROHN:

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1 A. Yes, in our office, yes, in Houston.  
2 Q. And who do you recall being at that meeting?  
3 A. Myself, Sebastian, Charlotte, and then Chad and  
4 Adrian were there.  
5 Q. And do you understand -- sorry. Do you  
6 understand why that meeting occurred?  
7 A. They were in Houston, I believe, just in town,  
8 and just wanted to put a face with the name and just have  
9 some face-to-face introductions.  
10 Q. And did you learn anything about their work or  
11 anything that caused you any concern?  
12 A. No. They -- the gist of the conversation was  
13 just kind of high-level thoughts about, you know,  
14 maintenance and things that were going on at the facility,  
15 but no -- no other issues or concerns.  
16 Q. And then there's an e-mail from Merlin to  
17 David Smith, March 24th.  
18 "David, I suggested to Adrian several weeks ago to  
19 meet the Vitol team after Sebastian made some comments  
20 related to their capability. In addition to help them with  
21 possible negative comments (behind the scene) from Andrew."  
22 Did you ever talk to Mr. Sebastian -- I mean,  
23 Mr. Moretti about negative comments made by Andrew to him  
24 about Petro?  
25 A. Not that I recall, no.

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1 Q. Did you ever hear Mr. Sebastian making any  
2 comments about the capabilities of Petro in or around -- at  
3 any time?

4 A. No.

5 Q. This goes on to say "So just last week Adrian  
6 called to say they were meeting Vitol this week. I am  
7 sorry I should have passed that info by you. He did ask  
8 about Sebastian's background and I promised I would get  
9 that from you, but forgot to do so."

10 And then it says "I think the Meeting will be a good  
11 relationship building exercise, and as you right say --" I  
12 think it's might say, "that they be honest, I told them the  
13 same thing. In addition I asked them to show that they are  
14 a small company with low overhead so some things can move a  
15 bit slow.

16 "I also think it will help with undercutting efforts  
17 by Andrew."

18 See that, sir?

19 A. Yes, ma'am.

20 Q. I'm gonna ask you again, did Andrew ever say  
21 anything not complimentary about Petro to you?

22 MR. KELSO: Objection. Asked and answered.

23 BY MS. ROHN:

24 Q. You may answer.

25 A. No, I don't recall him ever doing that.

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1 have much say. It's a cost we have agreed to by issuing a  
2 PO."

3 Did you ever hear allegations being made by Andrew  
4 that the workers of Petro were lazing on the job and they  
5 weren't really working?

6 A. No.

7 Q. It goes on to say "I believe that if yourself  
8 and/or Vitol believe that PIS is generating money off IPOS  
9 by stretching the job and making up the hours, then the  
10 solution is to have all Vitol related work done on a Time  
11 and Material basis where their time can be carefully  
12 monitored. That is a choice that you and/or Vitol need to  
13 insist on going forward."

14 Did you have any conversation with Merlin about  
15 changing it to time and materials?

16 A. No.

17 Q. And then it goes on at the end of that paragraph,  
18 "So if Vitol believes there is a more cost effective way  
19 for these types of Projects, then someone needs to solicit  
20 estimates from other Contractors and do the comparison. I  
21 don't believe anyone on the IPOS side is opposed to do so,  
22 but it's up to Vitol to assist us here."

23 Do you know why Mr. Figueira would be writing to  
24 Andrew and telling Andrew what Vitol needs to do?

25 A. No.

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1 Q. And then if you go to 6707, there's an e-mail  
2 April 22, 2021, from Merlin to Andrew Canning and  
3 David Smith. "Subject: SS 3-inch line."

4 That would be the same 3-inch vent line; correct?

5 A. Correct.

6 Q. It says "Company Confidential."

7 It says "Thanks for letting us know of your concerns  
8 shown below. Having read thru it and based on the  
9 discussion we had yesterday I'm having difficulty in  
10 responding to PIS on their estimated costs other than to  
11 talk to them of their productivity.

12 "On a cost aspect, yourself, Vitol (Tim) and myself  
13 accepted their written estimate and we issued a PO based on  
14 that estimate."

15 Do you dispute that you participated in giving Petro a  
16 purchase order on the No. 3-vent line?

17 A. I don't recall, but it's likely.

18 Q. Okay. "We were collectively all copied on  
19 e-mails related to the Vent Line Project and so it's my  
20 opinion that there -- that what was submitted was approved  
21 by Vitol."

22 You're saying this to Andrew.

23 "So if your precept -- perception is that they are  
24 trying to make up the hours to match their estimate by  
25 lazing on the job, that is one thing we may not able to

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1 Q. And who did David Smith work for at this time?  
2 Didn't David Smith work for VTTI?

3 A. I don't recall where he was at that point. He  
4 may have been the operations manager for their Seaport  
5 facility at that time. I believe that's the case, because  
6 I believe Merlin was the operations manager for IPOS at  
7 that point in time.

8 Q. Merlin goes on to say "Frankly, Andrew, I'm not  
9 sure of a way to solve your concerns. I know you had  
10 concerns of PIS productivity, proficiency and their ethics.  
11 In my view we have 2 choices here; one is to have PIS on a  
12 Time and Material Contract for all project work or you  
13 solicit bids from another Contractor that you believe is  
14 better suited. I don't believe you will have any  
15 opposition from David and I on either of these two  
16 options."

17 Had you heard complaints of Andrew about the ethics of  
18 PIS?

19 A. No.

20 Q. And then finally there's an e-mail from -- the  
21 e-mail from Andrew Canning dated April 22, 2021, that this  
22 -- we just read was a response to, to Merlin and  
23 David Smith.

24 "Further to our discussion yesterday and my  
25 speculation about extra, the extra team set on and 10 hour

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1 days which I felt was being used to ensure the estimated  
2 value of the estimate is collected in time sheet hours that  
3 Vitol insist that I review. I walked the WAPA site today  
4 (at around 08:00) and observed a 4/5 man tent -- sorry --  
5 team either sitting outside the fabrication tent or leaning  
6 on or against the pipework in the fabrication tent. Also  
7 checked the actual fabrication welds on the pipe installed  
8 in the rack to date (there is now two pipe runs in place on  
9 the rack from the IPOS WAPA fence line running to the west  
10 and east."

11 Do you know why Andrew would send this to Merlin and  
12 David if this was actually a Vitol job?

13 A. It's not really a Vitol job. It's -- they're the  
14 contractors that are overseeing the work. So I don't know  
15 why he would send -- I don't know what his context or  
16 reason for sending it is, but it's not necessarily a Vitol  
17 observed project.

18 Q. Well, sir, it was a Vitol POS, was it not, sir?  
19 Didn't we go over the e-mail where you said don't bill this  
20 to IPOS, here is a PO from Vitol, use this PO?

21 MR. KELSO: Objection. Misstates the  
22 testimony.

23 BY MS. ROHN:

24 Q. You may answer.

25 A. Can you please repeat the question?

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1 Q. Isn't it a fact, sir -- do you remember the  
2 e-mail we went through where you sent out and said don't  
3 bill this job to IPOS, it's a Vitol job, use this Vitol  
4 purchase order number?

5 A. I never stated that in an e-mail. Somebody else  
6 might have.

7 Q. Was it a Vitol purchase order?

8 A. We did provide a Vitol purchase order number,  
9 yes, for the project.

10 MS. ROHN: The next exhibit is 4878.

11 BY MS. ROHN:

12 Q. This is -- looks like another progress report  
13 dated March 31, 2021.

14 A. What was the number again?

15 Q. It's 4878.

16 MS. ROHN: Do you have that, Karima?

17 There it is, right there on the screen.

18 BY MS. ROHN:

19 Q. You see where it says "Had 19 root welds and sole  
20 plates PT (NDT) by Versa, all passed inspection"?

21 A. I see that in the e-mail, yes.

22 Q. Did you ever ask to see the actual Versa  
23 documents?

24 A. No.

25 Q. Why not?

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1 A. It's not my job to review those.

2 Q. But you're on this e-mail; correct?

3 A. I am on the e-mail, yes.

4 Q. Well, you asked for other documentation from  
5 Petro. Why wouldn't you ask for that documentation?

6 A. Again, this deals mostly with the field  
7 construction work that's being done. I'm not responsible  
8 or supervising that. It is my job to provide what WAPA was  
9 requesting in terms of the job data book information.

10 MS. ROHN: The next one starts 4871 to 4877  
11 out of Exhibit 81.

12 MR. KELSO: Counsel, none of these documents  
13 are in Exhibit 81, at least the version that we've  
14 been provided.

15 MS. FRANCIS: Can we have the Bates numbers  
16 read into the record again, please?

17 MS. ROHN: 4871 through 4877.

18 MR. KELSO: I'd ask that we be provided with a  
19 copy of the actual exhibits that you're using with the  
20 witness.

21 MS. ROHN: I don't think that's unreasonable.  
22 I'm assuming that this was in Exhibit 81, but it could  
23 have been in Exhibit 66.

24 MR. KELSO: Exhibit 81 is just the production  
25 cover sheet that lists the Bates numbers. It doesn't

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1 have the actual document.

2 BY MS. ROHN:

3 Q. March 29, 2021, the front of this document,  
4 states from Charlotte Horowitz to Merlin and Adrian, and a  
5 bunch of people at WAPA, and Sebastian Moretti, and  
6 Andrew Canning.

7 "Merlin/Adrian, I want to introduce you to  
8 Matthias Clarke, he will be the WAPA representative  
9 overseeing the vent line replacement project for WAPA."

10 Does that refresh your recollection as to who the guy  
11 was from WAPA?

12 A. They -- they have a slew of -- of people, like a  
13 big group that typically are on these calls and it varies;  
14 so I don't really remember who specifically was on that  
15 call.

16 Q. Okay. And then it says "At the moment he would  
17 like the manufacturer material data sheet for the  
18 replacement piping procured for use."

19 And then if you go to 4872, do you see that on  
20 March 29th --

21 MS. ROHN: 4872. 4872.

22 Pull up -- go down a little bit for the  
23 Adrian Melendez, go down a little bit.

24 BY MS. ROHN:

25 Q. And you see on the same day that that document

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1 was asked for, it was asked for at 12:39, and at 1:24  
2 Adrian Melendez sends a copy of the MTR as requested to  
3 both Charlotte and Mr. Matthias Clarke?

4 A. Can you please scroll down to see Charlotte's  
5 e-mail? I'm sorry.

6 Q. Sure.

7 A. Just trying to get the chronological order  
8 correct.

9 Okay, you can scroll up.

10 MS. ROHN: Okay.

11 BY MS. ROHN:

12 A. Got it, yes.

13 Q. So do you dispute that Petro was prompt when  
14 asked for documents?

15 A. In this particular case, they were prompt.

16 Q. Can you cite to me a case when they were not?

17 A. Not specifically. I know that we're still  
18 waiting on materials for other projects that we've

19 requested. It varies.

20 Q. Really? What materials are you waiting for?

21 A. I'm sorry?

22 Q. What materials are you waiting for?

23 A. To my knowledge, we're still requiring job data  
24 books to be provided for certain projects that we have not  
25 received.

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1 to Contractors under our direct control."

2 Were you aware that there was a dispute between  
3 Mr. Canning and IPOS about him going directly to  
4 contractors?

5 MR. SIMPSON: Objection.

6 BY MS. ROHN:

7 Q. You may answer.

8 A. No.

9 Q. Goes on to say, "For example, you were asking the  
10 Security Guard for the Gate Logs. Both David and I have  
11 spoken to you before of the sensitive of your review of  
12 those logs. In spite of discussing this with you, this  
13 situation has reoccurred. As we discussed before the need  
14 for you to have the gate information is not a problem, but  
15 your direct request is creating a problem for us as  
16 previously discussed."

17 Were you aware that Mr. Canning was going directly to  
18 the gate guards to get information?

19 A. No.

20 Q. Were you aware that Mr. Canning was attempting to  
21 check Petro's time sheets by going to the guard gate logs?

22 A. No.

23 Q. You ever had any discussions with Mr. Canning  
24 about that?

25 A. No.

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1 Q. Well, sir, isn't it true that you were sent and  
2 received and accessed a Dropbox with all those documents?

3 A. There were some documents that were missing, and  
4 in some cases there were disputes on the validity for  
5 certain welding certs.

6 Q. Well, those aren't documents that are the  
7 missing; those are validity. My question to you, sir, is  
8 can you name a single document that is missing?

9 A. I personally would not be able to label those,  
10 but potentially Andrew could if he went through if there is  
11 anything missing.

12 Q. Did Andrew also get the Dropbox?

13 A. I don't know.

14 MS. ROHN: All right, document No. CANNING  
15 14280.

16 BY MS. ROHN:

17 Q. This is an e-mail, April 4, 2021, from Merlin to  
18 David Smith and Andrew Canning, "Re: Contractor conference  
19 call Monday.

20 "Company Confidential."

21 It says, "Andrew, I am more than happy to talk to you  
22 on a separate call. However, the comment that I made to  
23 you yesterday it was to reach out to me on issues of a  
24 project that is under operations control. What I don't  
25 like to see is you asking questions and giving directions

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1 Q. Goes on to say, "The issue yesterday was that I  
2 was informed by PIS that you stopped the work. I got this  
3 from Petro and for that reason I called you. My point to  
4 you yesterday was to reach to me or Calvin first if you  
5 have any questions or concerns and not engage the  
6 Contractor who is working on an IPOS supervised project. I  
7 didn't say to you in any way to not interfere in our work  
8 or words as such."

9 Do you -- were you aware that there was -- Petro --  
10 excuse me, that IPOS was instructing Canning that this  
11 3-inch vent line was a line that was being supervised by  
12 IPOS?

13 A. No, I wasn't aware.

14 Q. Was that line being supervised by IPOS?

15 A. Yes, it should have been.

16 Q. Goes on to say "You also --" sorry.

17 "The reason I like you and Petro -- the reason I like  
18 you and Petro on a call is last week you spoke to a Petro  
19 employee who you believe may be living on an IPOS site."

20 Were you ever heard any complaints by anyone that  
21 Petro had an employee living on IPOS site?

22 A. No.

23 Q. And it goes on to say "I like a more direct  
24 communications between you, the Contractor, and/or myself  
25 of these kinds of issues as soon as you note them."

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1 Were you aware that there was a belief that  
2 Mr. Canning wasn't giving IPOS information at the time he  
3 received it?  
4 MR. SIMPSON: Objection.  
5 BY MS. ROHN:  
6 Q. You may answer.  
7 A. Was there a question?  
8 Q. I said were you aware that there were complaints  
9 by IPOS that Canning was not giving them information at the  
10 time that Canning received it?  
11 A. No.  
12 MR. SIMPSON: Objection.  
13 BY MS. ROHN:  
14 Q. "You also said that you needed Gate logs to  
15 verify where the 15 people signed in were working. Also,  
16 you reported to me that one of the Welders banned from the  
17 site was observed outside our Gate and you were concerned  
18 if he was working on our site. Don't you think these  
19 questions are better answered by direct engagement of Petro  
20 or myself as soon as those are noted?"  
21 Were you aware of the complaint of delay in bringing  
22 matters to IPOS' attention?  
23 A. No.  
24 Q. Then it says "The above are some of the reasons  
25 why I like to have a Meeting between Petro, you and

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1 BY MS. ROHN:  
2 Q. You may answer.  
3 A. No.  
4 MS. FRANCIS: What is the Bates number of that  
5 document, please?  
6 MS. ROHN: It's Canning 14280.  
7 MS. FRANCIS: Thank you.  
8 MS. ROHN: Next is IPOS 2020 to 23.  
9 BY MS. ROHN:  
10 Q. If you go to 2021 at the bottom, this is a  
11 continuation of a March 31st e-mail.  
12 MS. ROHN: Go to 2021. Okay.  
13 BY MS. ROHN:  
14 Q. This is a continuation --  
15 MS. ROHN: If you go to the bottom -- if you  
16 go to -- sorry. It's 2022. Go one -- go down one  
17 more page. Okay.  
18 BY MS. ROHN:  
19 Q. So this was a comment -- this is a continuation  
20 of the e-mail about giving -- getting the MTRs for WAPA --  
21 for WAPA's to have, all right. And so you see that there  
22 were -- there's the same comment about the MTR for your --  
23 Adrian giving the requested MTR?  
24 A. Yes.  
25 Q. And so then it will start on page 2021, right

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1 ourselves. I think, like you, we all want to see IPOS work  
2 done correctly and safely. But, without direct engagement  
3 of all parties, I am afraid we may not be as successful as  
4 we would like.  
5 "I look forward to your participation at the Meeting  
6 tomorrow."  
7 Were you aware that there was going to be a meeting  
8 about the difficulties between Petro and Canning?  
9 A. No.  
10 Q. Then, Mr. Canning has an e-mail to Merlin and  
11 Smith, "Contractor call Monday.  
12 "Merlin, I do not think the intended purpose of the  
13 telephone conference on Monday with Petro Industrial will  
14 be met ('to reset our relationship as there have been a few  
15 hiccups these last few weeks') unless I better understand  
16 the comments you made in our brief telephone discussion on  
17 Saturday where you talked about 'my continued interference  
18 with the operation and operations led work.' I believe it  
19 is worth discussing this and several other recent  
20 comments."  
21 Were you aware that Mr. Figueira, Merlin was also  
22 complaining that Mr. Canning was not acting appropriately  
23 with Petro?  
24 MR. SIMPSON: Objection.  
25 MS. FRANCIS: Objection. Foundation.

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1 there at the bottom, March 31st, same March 31st, from  
2 Andrew Canning to Adrian and Merlin and Charlotte, and  
3 Sebastian, and David Smith.  
4 It says, "Thank you for providing the complete MTR's  
5 for the two material lot numbers, I checked samples of the  
6 lots with bundle and heat numbers and all seemed to  
7 correlate satisfactorily."  
8 Was that one of Mr. Canning's job duties?  
9 A. Yes.  
10 Q. Okay. "Could you provide clarification on the  
11 following:"  
12 There's a bullet point. "Welding procedure, could  
13 provide a copy of the welding procedure for 3E1 (I am  
14 assuming this will be a VTTI procedure) as I am interested  
15 in a few potential anomalies that I observed during a site  
16 visit earlier today."  
17 Do you know what the reference to 3E1 is?  
18 A. No.  
19 Q. The document that we saw earlier that was the  
20 VTTI procedure, is that indeed the procedure that would  
21 have been applicable for the 3 vent line?  
22 A. I don't know. It might have been.  
23 Q. Okay. So then it says --  
24 MS. ROHN: Can you scroll down, please?  
25 BY MS. ROHN:

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1 Q. Next bullet point, "Use of purge gas. I noticed  
2 that the weld setup this afternoon was initially had the  
3 weld ground made through a clamp attached to the pipe wall  
4 at the open end. After I inspected the setup, the team  
5 removed the ground and installed a cap which was piped to a  
6 gas cylinder, the ground was subsequently reattached by  
7 wrapping the ground cable around the pipe with the clamp  
8 set gripping the insulation of the cable which provided  
9 limited contact and pressure to hold the clamp to the  
10 material surface. Would it be possible to provide a  
11 suitable ground clamp that will grip the outside wall or  
12 pipe?"

13 Was that one of Mr. Canning's job duties to talk about  
14 how welders were welding?

15 A. I don't know. He could have made safety  
16 recommendations. It may have been a safety issue. But I  
17 -- I don't know if I would -- could give an answer whether  
18 or not that's his job or not.

19 Q. The second bullet point, "Root weld inspection.  
20 How is the root weld being inspected, I could see no  
21 evidence of NDT?"

22 Is Mr. Canning supposed to be asking how root welds  
23 were inspected?

24 A. Sorry, I'm just reading this as we're going  
25 through. Just give me a second.

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1 Can you please repeat the question?

2 Q. Yeah. Is it Mr. Canning supposed to be  
3 determining how root welds are being inspected?

4 A. I don't think it's uncommon for someone to ask.

5 Q. "Final weld inspection. How is this to be  
6 undertaken (method and by whom) and what percentage of  
7 welds will be inspected?"

8 Sir, isn't there a standard that says how many welds  
9 will be inspected?

10 A. There -- every contractor takes a different  
11 approach. Some require a certain percentage to be x-rayed  
12 and tested. Some cases they do all of them. He --  
13 everybody just does it differently. So he probably was  
14 just asking just to determine how many were going to be  
15 done so he could figure out the percentage.

16 Q. Well, but, sir, there was a VTTI procedure that  
17 told you which ASME procedure to follow, isn't that  
18 correct, sir?

19 A. Correct.

20 Q. And that ASME procedure will tell you how many  
21 welds to inspect, would it not, sir?

22 A. It would. I believe the percentage is  
23 10 percent. But other contractors do different amounts.

24 Q. Okay. But in this job there was a particular --  
25 a particular procedure that had been adopted; correct?

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1 A. Well, that procedure is used in all projects.  
2 Again, contractors tend to go above and beyond the x-ray  
3 percentage in some cases.

4 Q. Is there a requirement anywhere in your VTTI that  
5 you don't follow it, you do something different?

6 A. Again, I wouldn't know. I -- I don't -- I don't  
7 go through the procedures or -- or enforcement.

8 Q. Should Mr. Canning have known what the procedure  
9 was and how many welds were supposed to be tested?

10 MR. SIMPSON: Objection.

11 BY MS. ROHN:

12 Q. You may answer.

13 A. He would have a general idea, yes, but I don't  
14 think it's an uncommon question to ask.

15 MS. ROHN: If you go to 221. Andrew Canning  
16 -- if you go to 221, that's up. And then go to the  
17 middle.

18 BY MS. ROHN:

19 Q. On March 31st he also asked with copy to  
20 Ms. Horowitz, "Adrian one other question I have is on the  
21 sole plates, are they being fabricated from the same batch  
22 as the current material or earlier plates from the Chinese  
23 material?"

24 Now, is Mr. Canning supposed to be going directly to  
25 an IPOS contractor to ask them these questions?

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1 A. I don't know.

2 MR. SIMPSON: Objection.

3 BY MS. ROHN:

4 Q. You don't know?

5 A. No. I mean, he's overseeing the projects on a  
6 project basis as one of their contractors' representatives,  
7 so it's not uncommon to -- to do that.

8 Q. Didn't we just read an e-mail from Mr. Merlin to  
9 Canning saying stop going to our contractors?

10 A. We did, yes.

11 Q. And who -- and didn't you agree that it was IPOS  
12 that was overseeing this job?

13 A. They are one of the representatives overseeing  
14 it. Both Andrew and IPOS were overseeing the projects.

15 Q. Well, who was -- who was Mr. Canning working for?

16 A. OPTIS at this point.

17 Q. And who was Mr. OPTIS working for?

18 A. I'm sorry? Can you restate that?

19 Q. Who was OPTIS working for?

20 A. OPTIS was working for Vitol at this time, I  
21 believe, as a third-party contractor.

22 Q. All right. And then if you go up, there's an  
23 e-mail -- if you go up to page 2020, there's an answer from  
24 Adrian Melendez to Andrew, cc'ing Charlotte, Merlin,  
25 Sebastian, David Smith.

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1 "Please find the responds to your questions below in  
 2 red:  
 3 "Could you provide clarification on the following:"  
 4 And the first one is about the welding procedure.  
 5 And Mr. Melendez answers, "Attached are the WPS for  
 6 all types of welding for VTTI/IPOS which have been  
 7 previously provided?"  
 8 Do you recall also getting the WPSs for all types of  
 9 welding?  
 10 A. Not that I recall.  
 11 Q. Do you recall not getting it?  
 12 A. Uh, I don't think I ever received them or saw  
 13 them.  
 14 Q. In response to the clamp in the welding ground --  
 15 MS. ROHN: Would you go to the next page,  
 16 Karima.  
 17 BY MS. ROHN:  
 18 Q. The answer is, you see it in there, it says "The  
 19 cable wrapping around the pipe was mostly likely done in a  
 20 fitting and tacking phase of the weld and no purge is  
 21 needed. Once the root is started, the line is purged and  
 22 the ground clap is attached directly to the pipe. As far  
 23 as the burn marks, like would to review them with our site  
 24 supervisor tomorrow morning after a 1 inch vent line  
 25 walkdown if possible. Javier Vazquez, site supervisor, is

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1 WAPA and also to meet the project Piping Welding  
 2 Specifications, could you ask Adrian to provide the  
 3 following information please."  
 4 Then it has the qualification records of the welders,  
 5 and the material certification.  
 6 This is not copied to anyone at Vitol, is it?  
 7 A. No.  
 8 Q. So this isn't a request from Vitol, is it?  
 9 A. No, this is not a request from Vitol.  
 10 Q. This is a request from Mr. Canning; correct?  
 11 A. A request from Andrew Canning, yes.  
 12 Q. And then it says that the --  
 13 MS. ROHN: Next to the last paragraph, you  
 14 scroll down a little.  
 15 BY MS. ROHN:  
 16 Q. "I also do not have in my possession the project  
 17 welding specification chart for 304 stainless steel. Could  
 18 you ask HITECO if they could send the welding specification  
 19 procedure for 304 stainless. The reason I ask is a number  
 20 of the welds that have been made do appear to have a oxide  
 21 formation (coloration) in the heat affected zone either  
 22 side of the weld beads indicating localized overheating and  
 23 probable chromium depletion in that area (which will rust)  
 24 so I am interested in seeing if the HITECO / project  
 25 welding specifications chart requires increased welding

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1 on site every minute of the day would -- care of any --  
 2 take care of any questions or anomalies you may have  
 3 immediately."  
 4 Did you know Javier Vazquez?  
 5 A. No.  
 6 Q. And then as to the root weld inspection,  
 7 Mr. Adrian Melendez said, "At 2:00 pm this afternoon, the  
 8 PT technician for Versa Inspection performed the NDT  
 9 inspection on all the completed root welds (16) and marked  
 10 all the welds as PT okay with his initials. An NDT report  
 11 will be provided once all the welds are -- on completed  
 12 IPOS/VTTI."  
 13 Did you get the Versa report as part of the documents  
 14 that Petro gave at the end of this job?  
 15 A. I don't recall.  
 16 Q. And then as the final weld inspection, question,  
 17 Versa Inspection will perform PAUT on 10% of all welds."  
 18 Isn't that what the norm is, sir?  
 19 A. Again, I -- I have to look at the -- the  
 20 requirements.  
 21 Q. And then if you go to the first page, there's an  
 22 e-mail from Andrew Canning to Merlin and David Smith.  
 23 April 13, 2021.  
 24 "Given the sensitivity on my direct communications  
 25 with Petro and recent communication requesting data from

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1 shield gas flow to cool the weld area."  
 2 Again, is Mr. Canning supposed to be telling people  
 3 how to do welding?  
 4 A. It doesn't look like he's telling them how to do  
 5 the welding. He's more so just asking for the  
 6 specifications on the welding.  
 7 MS. ROHN: This is Exhibit -- this will be  
 8 Bates No. 4614 to 4626.  
 9 BY MS. ROHN:  
 10 Q. And this starts on 4614 from Charlotte to Merlin,  
 11 copied to you, dated May 24, 2021, and it says, "Hi Merlin  
 12 - We have gone through the M&R budget and the quotes that  
 13 you sent over. I believe we are missing 15 quotes. Some  
 14 of the items will be deferred to next year as we do not  
 15 have the funds for this year because we are requesting so  
 16 many items at one time.  
 17 "Would you mind sending the quotes for the items in  
 18 yellow, understanding that Andrew is working on the mound  
 19 settling project quote."  
 20 Do you know what these quotes are about?  
 21 A. I do not.  
 22 MS. ROHN: So let me have you scroll --  
 23 Karima, can you scroll through these?  
 24 Stop right --  
 25 BY MS. ROHN:

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1 Q. You see this says "2021-2022 Maintenance and  
2 Repair Budget"?  
3 A. Yes.  
4 Q. And that is a total of \$260,000; correct?  
5 A. Correct.  
6 Q. And it says --  
7 MS. ROHN: Scroll down a little bit.  
8 BY MS. ROHN:  
9 Q. It says "Attached Petro Quotations."  
10 So all of that \$260,000 work was anticipated to be  
11 done by Petro; correct?  
12 A. No.  
13 MR. KELSO: Objection. Assumes facts.  
14 And again, this is yet another document where the  
15 witness nor counsel have been provided with a copy.  
16 We would request it.  
17 MS. ROHN: Can you keep scrolling down?  
18 BY MS. ROHN:  
19 Q. You see that's a quote from -- these are all  
20 quotes from Petro. You see that?  
21 MS. ROHN: Keep scrolling.  
22 BY MS. ROHN:  
23 Q. And there's another one here for \$132,000.  
24 MS. ROHN: Keep scrolling.  
25 BY MS. ROHN:

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1 MS. ROHN: Exhibit No. -- Bates No. 4881.  
2 And if you'll scroll to the bottom.  
3 BY MS. ROHN:  
4 Q. It's an e-mail from Matthias Clarke. This is  
5 dated June 17, 2021, from Matthias Clarke, Adrian Melendez,  
6 yourself. You see yourself on that?  
7 A. Yes.  
8 Q. "LPG Vent Line Replacement Outstanding.  
9 "Good morning Charlotte/Adrian, The replacements of  
10 the LPG vent lines have concluded successfully. Please  
11 provide a timeline for the outstanding items below:  
12 "1.) Indication Marking of pipes along the line  
13 starting from flange visible from ground.  
14 "2.) Close-out Project Documentation.  
15 "3.) Removal of two sets of scaffolding around the  
16 piping/rack."  
17 You see that?  
18 A. Yes.  
19 Q. And if you scroll up --  
20 MR. KELSO: Counsel, can we please get a copy  
21 of this document?  
22 MS. ROHN: It's IPOS 4881.  
23 MR. KELSO: We'll like a copy of the document  
24 you're using with the witness.  
25 MS. ROHN: Thank you.

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1 Q. Do you see --  
2 MS. ROHN: Keep scrolling, please.  
3 BY MS. ROHN:  
4 Q. Do you see any quotes from anybody but Petro?  
5 A. Not currently, no.  
6 Q. And then if you go to the last page of that  
7 document, 4262 -- 4626, then there's a project --  
8 MS. ROHN: You just went passed it.  
9 BY MS. ROHN:  
10 Q. There's a project for a "Krohne Meter Factory  
11 Calibration" and that says "Attached the Krohne quotation"?  
12 A. I see that, yes.  
13 Q. So, sir, what basis would you have that as to the  
14 \$260,000 that was not anticipated to be done by Petro?  
15 A. I'm sorry. Can you rephrase the question?  
16 Q. What information do you have that as to the  
17 \$260,000 that was not contemplated to be done by Petro?  
18 A. These are all bids and estimates. These aren't  
19 contractually agreements that -- that they're going to do  
20 the work. On most of these are put together for budget  
21 purposes as well; so we utilize these estimates as part of  
22 the budget. But they aren't guaranteed work to be done,  
23 and there's no guarantee who we will select for those  
24 particular projects. It's a bid process in most of the  
25 cases.

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1 BY MS. ROHN:  
2 Q. You see this --  
3 MS. ROHN: I'll give you -- I'll arrange to  
4 have a copy of all these documents sent to you.  
5 MR. KELSO: Okay. When the witness is  
6 answering questions about the document, we'd ask that  
7 he have the actual document in front of him. I think  
8 that's a fair request.  
9 MS. ROHN: Sir, that would be impossible,  
10 wouldn't it? I'm not going to play these games.  
11 MR. KELSO: No, it wouldn't be impossible.  
12 You sent copies of the exhibits over before the  
13 deposition supposedly, which I understand was a prior  
14 agreement between the parties, and yet the exhibits  
15 you're using with the witness are different than the  
16 copies that you provided to the witness. That's  
17 not --  
18 MS. ROHN: My understanding this is part of  
19 Exhibit 81, which I gave you. It is not my fault that  
20 you guys put hundreds of pages in response to an  
21 interrogatory.  
22 MR. KELSO: First of all, these aren't Vitol's  
23 interrogatory responses. Second --  
24 MS. ROHN: I'm not going to have an argument  
25 with you, sir.

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1 MR. KELSO: All right. Let's just be clear  
2 for the record, counsel is refusing to provide the  
3 witness and the witness' lawyer with a copy of the  
4 documents she's asking about.  
5 MR. SIMPSON: And 81 provided by plaintiff's  
6 counsel before the deposition consisted of two pages  
7 total.  
8 BY MS. ROHN:  
9 Q. "Good Morning Matthias, We'll install the  
10 labeling of the two vent pipes and remove the two  
11 scaffolding this week. The project documentation will be  
12 turned over midweek -- mid next week."  
13 You were copied on this e-mail.  
14 Do you dispute that in fact Petro replaced the pipe to  
15 remove the scaffolding?  
16 A. I wasn't there to physically check to see. I do  
17 not know.  
18 MS. ROHN: The next one is IPOS 2986. It  
19 comes out of Exhibit 68.  
20 I don't need that one.  
21 Exhibit 541.  
22 Actually, we just sent you exhibit -- during the  
23 break Exhibit 251. Let's go to 251.  
24 252. Sorry.  
25 (E-mails were previously marked as Exhibit 252

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1 you the password to the Dropbox; correct?  
2 A. He says that he sent it, yes.  
3 MS. ROHN: And then 251.  
4 I don't need that one.  
5 Exhibit 62A. It's PIS 76.  
6 (E-mails Bates No. PIS 76 were previously marked  
7 as Exhibit 62A for identification.)  
8 BY MS. ROHN:  
9 Q. It's an e-mail dated August 24, 2021. "Please  
10 find attached Updated Account Received report which shows  
11 \$235,476.59 in past due invoices."  
12 This is sent to you and Charlotte Pratt.  
13 Do you recall receiving this?  
14 A. Vaguely.  
15 Q. Did you do anything to investigate why those  
16 payments had not been made?  
17 A. Yes, I would of.  
18 Q. You didn't finish your answer?  
19 A. I said, yes, I would have.  
20 Q. Well, what would you have done?  
21 A. I would have looked to confirm that we had  
22 received all the additional documentation required for the  
23 project and/or time sheets and everything associated with  
24 the project. I don't know specifically what this invoice  
25 amount is for, but that's what I would have done.

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1 for identification.)  
2 BY MS. ROHN:  
3 Q. This is Exhibit 252 dated June 14, 2023, and --  
4 sorry. July 15, 2021, and this says from Tim to Merlin,  
5 Charlotte, Adrian, David Smith, Terence Keogh,  
6 Andrew Canning, Coury Hodge.  
7 "Adrian, We're having issues gaining access to the  
8 Dropbox. Can you please invite myself and Andrew to the  
9 files."  
10 Do you understand that is the Dropbox where  
11 Mr. Melendez sent the complete documentation for the job?  
12 A. I don't --  
13 MR. KELSO: Objection. Form.  
14 BY MS. ROHN:  
15 Q. You may answer.  
16 A. Can you please repeat?  
17 Q. Do you dispute that that's the Dropbox where  
18 Petro sent the documentation for the job to be given to  
19 WAPA?  
20 A. It might be. I -- I'm not a hundred percent sure  
21 unless I saw the link or where it was, but more than likely  
22 that was the Dropbox link for the job data book that they  
23 had put together.  
24 Q. And in fact, if you scroll up, he then says -- he  
25 there says -- then says, "Done. Thank you," where he sends

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1 Q. Well, let me show you Bates-stamped marked IPOS  
2 543, which is 82.  
3 There's the same e-mail, but then there is a e-mail --  
4 do you see that?  
5 A. I don't see any -- anything else other than what  
6 we just looked at.  
7 Q. Okay. She hasn't gotten it up there yet.  
8 A. There we go.  
9 Q. Yeah, this is same. This is 543, IPOS.  
10 If you scroll down a little, you see this August 24th  
11 e-mail saying "What's the status of these?"  
12 And then if you'll scroll up, there's an e-mail from  
13 David Smith to you and Charlotte Pratt, copy Moretti, where  
14 it says "FY -- FYI, Sent to Petro today."  
15 And then if you go to the next page, there's a listing  
16 of the projects and some notes. One of them says "Jetty  
17 diesel line." And it says "Danny Martinez welder  
18 performance qualification."  
19 Were these invoices being held up because of the  
20 questions on the welding certifications?  
21 A. Which invoices were being held up?  
22 Q. Were any of these invoices being held up because  
23 of the question on the certification of the welders?  
24 A. At this point it -- we wouldn't have held up any  
25 kind of payment for other works being done probably at this

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1 point.

2 MR. KELSO: Counsel, we been going for about  
3 another hour. I'd like to take a break whenever  
4 you're at an appropriate stop.

5 MS. ROHN: Okay. We can take a break.

6 (A recess was taken at this time.)

7 MS. ROHN: This is Bates-stamped exhibit -- it  
8 was in 66, it's Bates-stamped IPOS 6380 to 6385.

9 BY MS. ROHN:

10 Q. And you will be happy to know this is my last  
11 exhibit. You've been very patient.

12 MS. ROHN: All right. If you will go to Bates  
13 No. 6381. Oops, I'm so sorry. 6382.

14 BY MS. ROHN:

15 Q. At the bottom of the page, there is an e-mail  
16 from Matthias Clarke dated August 6, 2021, to  
17 Adrian Melendez, Charlotte Pratt Horowitz, Merlin Figueira  
18 and yourself. You see where you're cc, Tom -- Tim K.?

19 A. Yes.

20 Q. And it's the No. 3 vent line.

21 "Good morning, Adrian. What is the status of the pipe  
22 labeling correction and project documents?

23 "When we spoke on the 20th, you indicated that there  
24 was a Dropbox Link that was shared with Vitol to  
25 access/download the project documents. Can you please

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1 forward the link to me and a projected date for when the  
2 labels will be corrected."

3 And we know that you got the Dropbox link on

4 July 15th, correct, from the documents we -- you looked at?

5 MR. KELSO: Objection. Form.

6 MS. ROHN: Noted.

7 BY MS. ROHN:

8 Q. You can answer.

9 A. This is the Dropbox link specifically for the  
10 3-inch vent line, correct --

11 Q. Yes.

12 A. -- referring to?

13 Yes, we got the link.

14 Q. So as of August 6th, WAPA still didn't have that  
15 link. Can you explain why?

16 A. All the information had not been either vetted or  
17 -- or correct. I know there were some issues with welding  
18 certs, and so we went through and were going to vet through  
19 all the documentation before sending it to WAPA with  
20 incorrect certs.

21 Q. And what -- did you ever speak to  
22 Guillermo Castro about the welding certs?

23 A. No.

24 Q. Did you see the letter from Guillermo Castro  
25 where he offered to come and recertify the welding certs?

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1 A. I don't recall. We haven't seen it today.

2 Q. So you gave WAPA no documents because you had a  
3 question about the welding certs?

4 A. Those documents are very critical for the  
5 integrity of the facility. It's -- it's a hydrocarbon  
6 facility, it's very dangerous, so ensuring that everything  
7 was done correctly and everybody was certified per  
8 requirement standards, we wanted to make sure that all the  
9 documentation was accurate and valid before sending it over  
10 to WAPA.

11 MS. ROHN: And then if you go to 6381.

12 BY MS. ROHN:

13 Q. In the middle of the page, there appears to be a  
14 response to the question on the Dropbox, because it  
15 indicates "We are working with vendor to supply all project  
16 information as required, additionally at this time we have  
17 a third party inspection being performed on the two 3-inch  
18 vent lines which include a hundred percent x-ray of all  
19 welds in the two 3-inch stainless steel lines, weather  
20 permitting we hope to have these inspections physically  
21 completed in field by Monday, August 16th."

22 Do you see that?

23 A. Yes. Can you scroll up so I can see who's  
24 sending what?

25 Q. Well, the -- I don't actually have that. I just

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1 have that Matthias Clarke sent an e-mail, and this is  
2 added. And I'm assuming you guys added it.

3 A. Can you scroll up a little bit?

4 Q. Sure.

5 A. There we go.

6 Q. You know what, Terry sent it. "Please see  
7 responses below regarding outstanding."

8 Do you see that?

9 MS. ROHN: Scroll up, please.

10 6381, please go to the top of the page.

11 BY MS. ROHN:

12 A. Can we keep going up a little bit? Oh, okay. So  
13 here we go. "Responses below." Okay.

14 Q. And the response is highlighted, the response "We  
15 are working with the third party vendor."

16 A. Can you scroll up a little bit more? Sorry. I'm  
17 just trying to get the --

18 Q. At the top of the page there.

19 A. There you go. Okay.

20 I'm just trying to understand what he's responding to.

21 Can you keep scrolling up?

22 MS. ROHN: Go to the top of the next page, of  
23 638 -- 6380.

24 BY MS. ROHN:

25 Q. That's the -- that's his e-mail and the listing

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1 of who he's sending it to, to Matthias Clarke.

2 A. Right. So he just says "give me a call." Okay.

3 Can you scroll --

4 Q. No, he says "Good day to all, Please see  
5 response."

6 And then the response is he highlighted the question  
7 from Matthias.

8 A. But that's not what I'm -- that's not what I'm  
9 seeing on my screen. I'm sorry. I --

10 MR. SIMPSON: Objection.

11 MS. ROHN: If you scroll to the middle of  
12 6381. 63 -- yeah.

13 BY MS. ROHN:

14 Q. The e-mail says -- before says, "Good day all,  
15 Please see responses."

16 And then what he did was he took the e-mail from  
17 Mr. Clarke and highlighted it and added to it --

18 MS. ROHN: If you'll scroll down a little bit.

19 BY MS. ROHN:

20 Q. Highlighted, "We are working with vendor to  
21 supply all project information as required, additionally at  
22 this time we have a third party inspection being performed  
23 on the two 3-inch vent lines which includes 100% x-ray of  
24 all welds in the two 3-inch stainless steel lines, weather  
25 permitting we hope to have these inspections physically

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1 completed in field by Monday August 16th."

2 That's been added; correct?

3 MR. SIMPSON: Objection.

4 BY MS. ROHN:

5 A. It's not clear what's been added or what hasn't  
6 been added. I'm just a little confused on the formatting.

7 Q. So did you ever turn the Versa inspection over to  
8 WAPA?

9 A. I never looked at the Versa inspection.

10 Q. Have you ever seen any e-mails turning the Versa  
11 inspection over to WAPA?

12 A. Not that I recall.

13 Q. And do you dispute that when Mr. Clarke asked  
14 Adrian to turn over the Dropbox, that you told him you  
15 were the customer, and the customer would turn over the  
16 Dropbox?

17 A. I -- those words were never stated.

18 Q. Do you recall having a conversation with  
19 Mr. Melendez about forwarding the Dropbox password to  
20 WAPA?

21 A. Not to my knowledge, I don't recall.

22 Q. And then if you look on page 6380, on  
23 September 13th --

24 MS. ROHN: 6380.

25 BY MS. ROHN:

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1 Q. On September 13th, Matthias Clarke sends to  
2 Terence Keogh, "Good morning Mr. Keogh, Can you please give  
3 me a call sometime today."

4 And then Mr. Keogh, if you scroll up, sends an e-mail  
5 to David Smith, "Just received this, would like to discuss  
6 before calling him as it is regarding documentation for the  
7 vent line installation."

8 So by September 13, 2021, this documentation had still  
9 not been produced to WAPA; isn't that correct?

10 A. It had not been -- more than likely it had not  
11 been forwarded to them because we still were waiting on  
12 complete job data books.

13 MS. ROHN: I have no further questions at this  
14 time.

15 MR. KELSO: Okay, thanks. We'd like to take a  
16 short break.

17 MS. ROHN: We just took one.

18 MR. KELSO: Yes. And we would like to confer  
19 now that your examination is over amongst counsel to  
20 see if we have any questions.

21 MS. ROHN: Okay. But please don't talk to the  
22 deponent.

23 MR. KELSO: Yes, of course.

24 MS. ROHN: Thank you.

25 (A recess was taken at this time.)

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#### CROSS-EXAMINATION

2 BY MR. KELSO:

3 Q. Mr. Kologinczak, do you recall questions from  
4 Petro's lawyer earlier about job data books?

5 A. Yes.

6 Q. What is a job data book?

7 MS. ROHN: Objection. Asked and answered.

8 BY MR. KELSO:

9 Q. You can answer the question.

10 A. A job data book is a compilation of all the  
11 documentation for the construction, welding certifications,  
12 hydro tests, x-rays, and assortment of other documentation  
13 that's compiled for a project, and it is provided at the  
14 end of the construction period and stored and saved for any  
15 kind of use that you may need if there is an issue with any  
16 of the asset.

17 Q. There are two projects with outstanding invoices  
18 in dispute in this case, the 3-inch vent line project and  
19 then the truck rack and reverse flow projects. I'd like to  
20 ask first about the job data book on the 3-inch vent line  
21 project. Okay?

22 A. Okay.

23 MS. ROHN: Objection to form. Assumes facts  
24 not in evidence.

25 BY MR. KELSO:

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1 Q. I show you Exhibit 252, which is a document  
2 Petro's lawyer showed you earlier.  
3 Do you recall questions about Exhibit 252?  
4 A. Yes.  
5 Q. All right. What project was the job data book  
6 that --  
7 MS. FRANCIS: Attorney Kelso, you're on mute.  
8 MS. ROHN: Yeah.  
9 MR. KELSO: Let me ask the question loudly.  
10 I don't want to get feedback from two mikes live in  
11 the same room.  
12 Can you hear me now?  
13 MS. FRANCIS: I can hear you. I lost  
14 connectivity briefly, but I am back online.  
15 MS. ROHN: We lost -- I think he lost  
16 connectivity, because he was gone for a moment and  
17 then he came back on.  
18 MS. FRANCIS: Okay. I thought it was on my  
19 end. Thank you.  
20 MR. KELSO: But everyone can hear me now;  
21 right?  
22 MR. SIMPSON: Yes.  
23 MR. KELSO: Good.  
24 BY MR. KELSO:  
25 Q. We are talking about Exhibit 252, which Petro's

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1 A. I don't really know. I -- Keogh.  
2 Q. All right. From Terence Keogh to Mr. Moretti,  
3 Mr. Canning, Mr. Smith copying you and Ms. Horowitz and  
4 Mr. Figueira on August 13, 2021.  
5 Do you see the e-mail?  
6 A. Yes.  
7 Q. Mr. Keogh wrote "The signage was ordered and I  
8 have confirmed receipt, it should be installed by  
9 September 15th. As far as remaining documentation, we are  
10 working to gather from PIS and it had the same issues as  
11 experienced regarding documentation for the Truck Loading  
12 and Reverse flow projects when it comes to documentation  
13 from vendor. In the meantime we have a third party  
14 performing an independent inspection of the two 3-inch  
15 stainless steel vent lines which includes 100% x-ray of all  
16 welds, weather permitting we should be complete in the  
17 field on Monday, August 16th."  
18 Do you see that?  
19 A. Yes.  
20 Q. All right. As of August 13, 2021, did you  
21 understand that IPOS was communicating with Petro about  
22 getting the required documents --  
23 MS. ROHN: I'm sorry. You're breaking up.  
24 BY MR. KELSO:  
25 Q. Based on this e-mail and other communications

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1 lawyer showed you earlier. What project did the job data  
2 book that Petro sent in Exhibit 252 pertain to?  
3 A. The 3-inch vent line project.  
4 Q. What was the problem with the job data book Petro  
5 sent for the 3-inch vent line project, to the best of your  
6 knowledge?  
7 A. The welding certifications were -- were  
8 inaccurate and had anomalies.  
9 Q. Okay. Based on the fact that Petro sent a job  
10 data book for the 3-inch vent line project, do you think  
11 Petro knew what a job data book was?  
12 A. Yes.  
13 MS. ROHN: Object to the form of the question.  
14 Calls for speculation.  
15 BY MR. KELSO:  
16 Q. Let's talk about the invoices then for the truck  
17 rack and reverse flow project.  
18 I'm going to show you Defendant's Exhibit 1 for  
19 today's deposition.  
20 (E-mails Bates Nos. IPOS 684 to 688 were  
21 previously marked as Defendant's Exhibit 1 for  
22 identification.)  
23 BY MR. KELSO:  
24 Q. Defendant's Exhibit 1 is an e-mail from Terry --  
25 how do you pronounce Terry's last name there?

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1 with IPOS, did you understand as of August 13, 2021, that  
2 IPOS was communicating with Petro about getting the  
3 required documentation for the truck loading and reverse  
4 load project?  
5 A. Yes.  
6 MS. ROHN: Objection. Leading.  
7 BY MR. KELSO:  
8 Q. As of August 13, 2021, had Vitol or IPOS, to your  
9 knowledge, receive the job data books for the truck rack  
10 and reverse flow project?  
11 A. No.  
12 MR. KELSO: And for all counsel's reference, I  
13 just placed that document into the chat. And I'm also  
14 going to add to the chat function the next document  
15 we'll be talking about, DX 2, Bates label  
16 Vitol-014573.  
17 (E-mails Bates Nos. VITOL-014573 to 014574 were  
18 previously marked as Defendant's Exhibit 2 for  
19 identification.)  
20 MS. ROHN: Were these sent to me prior to this  
21 deposition?  
22 MR. KELSO: No, but they're responsive to your  
23 questions.  
24 MS. ROHN: You know, you could just answer me.  
25 But thank you.

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1 BY MR. KELSO:

2 Q. Mr. Kologinczak, Defendant's Exhibit 2 is e-mail  
3 correspondence between you and Mr. Smith and Mr. Keogh and  
4 Mr. Canning on August 13, 2021, about invoices on the truck  
5 rack and reverse flow projects from Petro.

6 Do you see this correspondence?

7 A. Yes. Let me just read it for a second.

8 Q. Please take your time.

9 A. Okay.

10 Q. So on August 10, 2021, it looks like David Smith  
11 and IPOS e-mailed you copying Mr. Canning, Mr. Keogh, and  
12 said, "Petro has asked about late payments, and some are  
13 from Truck Rack and Reverse Flow. Andrew said that he  
14 suggested to Vitol about QA packages prior to payment?"

15 "I'd like to respond back to them on whatever  
16 requirements are needed or decisions Vitol is taking  
17 related to those projects.

18 "You would like to organize a call to discuss outside  
19 of project/maintenance call with smaller group, it would  
20 probably be better."

21 Do you see that e-mail from Mr. Smith on August 10th?

22 A. Yes.

23 Q. All right. Do you see that you responded to  
24 Mr. Smith at IPOS on August 13, 2021, and asked "Are there  
25 specific invoices they're referring to. And yes I agree

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1 with Andrew on the QA packages. I personally haven't  
2 received any data book documentation on any of the project,  
3 has anyone at IPOS received anything?"

4 Do you see that?

5 A. Yes.

6 Q. In that e-mail were you referring to job data  
7 books for the truck rack and reverse flow project?

8 MS. ROHN: Objection. Leading.

9 BY MR. KELSO:

10 Q. How did Mr. Smith respond to your e-mail on  
11 August 13th?

12 A. "As far as payments, they mean the truck rack  
13 payments and reverse flow."

14 MS. ROHN: I didn't understand that answer.

15 Could you repeat it?

16 THE WITNESS: I'm just reading the e-mails as  
17 it says. "As far as payments, they mean the truck  
18 rack payments and reverse flow."

19 BY MR. KELSO:

20 Q. Do you see above that line Mr. Smith told you  
21 "Checking in documents now"?

22 A. Yes.

23 Q. Do you think he meant checking on documents now?

24 MS. ROHN: Objection to form.

25 BY MR. KELSO:

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1 A. More than likely.

2 Q. Based on your correspondence with Mr. Smith on  
3 August 13, 2021, did you understand that IPOS would have  
4 been communicating with Petro about job book documentation  
5 for the truck rack and reverse flow --

6 MS. ROHN: I can't hear you.

7 THE WITNESS: There's a fire alarm going on.

8 MR. KELSO: I'm sorry you all, we need to go  
9 off the record. There's a fire alarm going off in the  
10 building.

11 MS. ROHN: Oh my goodness. Okay. Well, let  
12 us know when you come back.

13 (Off the record.)

14 BY MR. KELSO:

15 Q. I believe we were talking about DX 2 when we last  
16 left.

17 Mr. Kologinczak, do you see Defendant's Exhibit 2?

18 A. Yes.

19 Q. Based on Mr. Smith's e-mail to you on  
20 August 13, 2021, saying, "Checking on documents now,"  
21 referring to the truck rack and reverse flow project, did  
22 you understand that IPOS would be taking any action with  
23 respect to Petro or making any communications with Petro?

24 A. They should have, yes.

25 MS. FRANCIS: Objection to form.

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1 MS. ROHN: I didn't hear your answer.

2 THE WITNESS: I said they should have, yes.

3 MS. FRANCIS: Objection. Foundation.

4 BY MR. KELSO:

5 Q. And what action would that have been?

6 MS. ROHN: Objection. Calls for speculation.

7 I can't hear you.

8 (Interruption by the court reporter.)

9 BY MR. KELSO:

10 Q. What action did you expect IPOS to take based on  
11 their August 13th e-mail --

12 MS. ROHN: Objection. Form.

13 BY MR. KELSO:

14 Q. -- "Checking on documents now"?

15 A. They would have been reaching out to  
16 Petro Industrial to try and get that information, that  
17 documentation to provide for us.

18 Q. Let's look at Exhibit 62, which Petro's lawyer  
19 showed you earlier today. Specifically, correspondence  
20 from Mr. Melendez to you and Ms. Horowitz on  
21 August 24, 2021.

22 Do you see Exhibit 62?

23 A. Yes.

24 Q. In Exhibit 62 Mr. Melendez says he -- says Petro  
25 has \$235,476.59 in past due invoices as of today.

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1 And if we scroll to the attachment, do you see that a  
2 couple of those invoices or a few of those invoices relate  
3 to the track rack and reverse flow project?

4 A. Yes.

5 Q. What is the date on this e-mail from Mr. Melendez  
6 to you and Ms. Horowitz checking on the invoices for the  
7 truck rack and reverse flow project?

8 A. August 24, 2021.

9 Q. I am now pasting two documents into the chat.

10 MS. ROHN: I don't have a chat -- I don't  
11 have a computer in front of me, so that does me no  
12 good.

13 MR. KELSO: Would you prefer I e-mail them to  
14 you, Counsel?

15 MS. ROHN: I don't have a computer in front of  
16 me. It does me no good.

17 MR. KELSO: I'm happy to send the documents to  
18 you, and we can take whatever time you need to print  
19 them out. I also plan to screen share.

20 MS. ROHN: But if you would enlarge the screen  
21 -- if you would scan in on the screen shot, I would be  
22 able to read them. It's too small to read on the  
23 screen.

24 MR. KELSO: Very well. That's what I plan to  
25 do next.

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1 BY MR. KELSO:

2 Q. So I shared two documents. DX 3 will be IPOS  
3 003865; DX 4 will be PIS000080.

4 (E-mails Bates No. IPOS 003865 were previously  
5 marked as Defendant's Exhibit 3 for identification.)  
6 (Letter dated August 27, 2021, and Documentation  
7 Requirements Bates Nos. PIS 80 to 82 were previously  
8 marked as Defendant's Exhibit 4 for identification.)

9 BY MR. KELSO:

10 Q. Let's look at DX 3 first. Do you see that on  
11 August 27, 2021, Mr. Smith at IPOS reply to Mr. Melendez's  
12 e-mail about past due invoices from August 24th.

13 MS. ROHN: Can you please zoom in? I can't  
14 read it.

15 BY MR. KELSO:

16 Q. And said, "FYI, Sent to Petro today." And  
17 attached a letter.

18 A. Yes, I see it. It says "FYI." I don't know if  
19 there's attachment to it or not.

20 Q. Do you see the attachments line in the e-mail?

21 A. Yes.

22 Q. Do you see that there is a PDF attachment called  
23 "Petro Industrial 8-27-21.pdf"?

24 A. Yes.

25 Q. "Enclosure to Letter to Petro Solutions.DOCX."

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1 A. Yes.

2 Q. Let's look at DX 4.

3 MS. ROHN: I cannot read any of these because  
4 they're too small. So if you can't blow them up,  
5 you're gonna have to send them to me.

6 MR. KELSO: I'm blowing them up as much as I  
7 can. I sent them to you by chat. Would you like me  
8 to also e-mail them to you?

9 MS. ROHN: Yeah, if you can e-mail them to me,  
10 I can take a break and print them from my e-mail.

11 MR. KELSO: That's fine.  
12 Is this large enough for you to read the  
13 document.

14 MS. ROHN: No. Sorry.

15 MR. KELSO: How about this?

16 MS. ROHN: Yeah. Yeah, I could read that.

17 MR. KELSO: Great.

18 BY MR. KELSO:

19 Q. DX 4, is a letter on August 27, 2021, from IPOS  
20 to Petro with the Re line "Maintenance Contract dated  
21 September 1, 2019."

22 Do you see that?

23 A. Yes.

24 Q. Do you understand DX 4 to be the attachment to  
25 IPOS' August 27th e-mail?

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1 A. Yes.

2 MS. ROHN: Objection. Calls for speculation.

3 BY MR. KELSO:

4 Q. IPOS wrote to Mr. Melendez on August 27, 2021,  
5 "This will respond to your communication of August 9, 2021  
6 requesting the status of outstanding invoices as well as  
7 access to retrieve certain equipment, tools and supplies  
8 from the St. Croix facility."

9 Do you see that?

10 A. Yes.

11 Q. Do you see the second paragraph that IPOS wrote  
12 to Mr. Melendez on August 27, 2021, "However, before we can  
13 process any additional invoices, it is essential that we  
14 are able to verify that the work was in fact performed by  
15 properly qualified individuals, who utilized reasonable  
16 care in the performance of their duties, as required by the  
17 terms of the Contract. To that end, please promptly  
18 produce validated copies of all the QA documentation  
19 required by the project specifications (the project data  
20 books) for all new fabrication works, repairs and apparent  
21 like for like replacement work activities undertaken since  
22 2017."

23 Do you see that?

24 A. Yes.

25 Q. Did you understand IPOS -- sorry.

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1 At any point after IPOS sent this e-mail on  
2 August 27, 2021, to Petro requesting project data books in  
3 connection with outstanding invoices through to the  
4 present, has Petro sent Vitol or IPOS, to your knowledge,  
5 the project data books for the truck racks and reverse  
6 loading projects?

7 A. No.

8 MS. ROHN: Objection to form.

9 MR. KELSO: Thank you, Mr. Kologinczak.

10 Pass the witness.

11 MR. SIMPSON: I have no questions.

12 MS. FRANCIS: On behalf of IPOS, I do not have  
13 any questions for this witness.

14 MS. ROHN: I have a few follow-up.

15 REDIRECT EXAMINATION

16 BY MS. ROHN:

17 Q. As to the anomalies that you mentioned in the  
18 data book, what anomalies were those?

19 A. The welding certifications.

20 Q. And as to the documents missing for the truck  
21 rack, what documents were missing?

22 A. I don't think I ever saw any documentation for  
23 the project, not that I recall.

24 MS. ROHN: I have no further questions.

25 MR. KELSO: Nothing further from us.

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1 MR. SIMPSON: Nothing for Mr. Canning.

2 MS. FRANCIS: Nothing for IPOS.

3  
4 (At 3:44 p.m., the deposition of this witness  
5 was concluded.)  
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1 CERTIFICATE OF REPORTER

2  
3 I, YVONNE SAMUEL-SETORIE, Registered  
4 Professional Reporter, do hereby certify that the above and  
5 named witness, TIM KOLOGINCZAK, after being duly sworn, was  
6 examined and testified via Zoom video conference as is set  
7 forth; and that the answers of said witness to the oral  
8 interrogatories propounded by counsel were taken by me in  
9 machine shorthand, and represents the official transcript  
10 of said deposition; and that said deposition is true and  
11 correct, to the best of my ability.  
12

13 I FURTHER CERTIFY that I am not counsel,  
14 attorney, or relative of either party, nor financially or  
15 otherwise interested in the event of this lawsuit.  
16

17 IN WITNESS WHEREOF, I have hereunto  
18 subscribed my hand on this 11th day of July 2023.  
19  
20  
21

22 \_\_\_\_\_  
YVONNE SAMUEL-SETORIE, RPR  
23  
24  
25